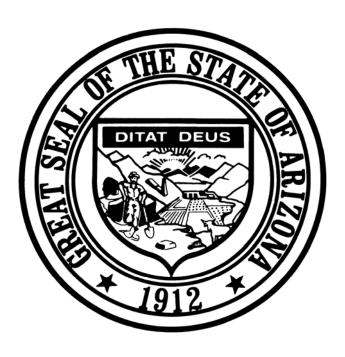
State of Arizona

Unemployment Insurance Tax Policy Manual



ARIZONA DEPARTMENT OF ECONOMIC SECURITY Division of Employment & Rehabilitation Services Employment Administration

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ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS:

SUBJECT: TABLE OF CONTENTS

100 PURPOSE AND SCOPE

This section outlines the federal regulations and state statutes that provide the authority for Unemployment Insurance (UI) Tax, including The Social Security Act of 1935 (Public Law 74-271) and The Federal Unemployment Tax Act of 1939 (Public Law 76-379). This section also includes mission statements for the Arizona Department of Economic Security (DES), the Division of Employment and Rehabilitation Services (DERS), and UI Tax. In conclusion, this section provides an overview of the purpose and scope of UI Tax and lists the eight individual units that jointly function to complete the services provided by this program.

200 UNEMPLOYMENT INSURANCE (UI) TAX ADMINISTRATIVE UNIT

This section describes the purpose and scope of the Administrative Unit, which is comprised of the management team responsible for the direct oversight of all of the units of the Unemployment Insurance Tax Section, which includes the Accounting, Appeals, Collections, Experience Rating, Field Audit, Imaging, Status Units and their support staff. This section also outlines the oversight responsibilities of the Administrative Unit for process development, monitoring and reporting necessary to ensure that the UI Tax program is in compliance with federal and state requirements. This section explains the role of the Administrative Unit for providing quality services to the employers of Arizona, other government entities and the community.

300 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER ACCOUNTING UNIT

This section describes the policies and procedures for UI Tax Accounting Technicians to follow for the Federal Unemployment Tax Act (FUTA) certification and in processing employer refunds. In addition, this section provides the mission statement for the Employer Accounting Unit. This section also contains policies for the UI Tax Employer Accounting Unit to follow in depositing employer contributions for the Arizona Job Training Tax.

400 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER STATUS UNIT

The UI Tax status unit examiners are responsible for making employer liability determinations. This section describes the policies and procedures for Status Unit Examiners to follow when making liability determinations. This section addresses State Unemployment Tax Act (SUTA) Dumping and provides the mission statement for the Unemployment Insurance (UI) Tax Employer Status Unit. The focus of these policies and procedures are to promote uniformity and timeliness in adhering to federal time lapse criteria for completing liability determinations as outlined by the United States Department of Labor's "UI Performs".

500 UNEMPLOYMENT INSURANCE (UI) TAX COLLECTIONS UNIT

The UI Tax Collection Unit is responsible for collecting all delinquent quarterly Unemployment Insurance Tax and Wage Reports and tax payments from employers. This section describes the policies, procedures and collection methods used by the UI Tax Collections Unit, as well as penalties and interest, which are charged on delinquent employer accounts. In addition, this section discusses the collectors' responsibility of making corrections to quarterly employer wage reports and in requesting closure for active employer accounts.

600 UNEMPLOYMENT INSURANCE (UI) TAX EXPERIENCE RATING UNIT

This section describes the policies and procedures of the Experience Rating Unit which determines unemployment insurance tax rates, researches and responds to benefit charge protests, and clears obstructed benefit claims due to missing wages. In addition, this section provides the mission statement for the Experience Rating Unit. In conclusion this section discusses the Shared Work Unemployment Compensation Program.

700 UNEMPLOYMENT INSURANCE (UI) TAX FIELD AUDIT UNIT

This section describes the policies and procedures used by the UI Tax Field Audit Unit in performance of the United States Department of Labor required employer audits and agency requested investigations.

800 UNEMPLOYMENT INSURANCE (UI) TAX APPEALS UNIT

This section provides an overview of the purpose, scope, and role of the Department in the employer appeals process. In addition, this section provides the mission statement for the Unemployment Insurance (UI) Tax Appeals Unit. The focus of this section is the policies and procedures used by the UI Tax Appeals Unit in providing written Reconsidered Determination responses to employers or employers' representatives appealing a determination made within the Department.

900 UNEMPLOYMENT INSURANCE (UI) TAX IMAGING UNIT

This section describes the policies and procedures of the Imaging Unit, which scans and indexes all documents and wages that come to UI Tax through the Visual Information (VI) System.

1000 TAX PERFORMANCE SYSTEM (TPS) UNIT

The Tax Performance System Unit reviews the internal controls and quality standards for thirteen functions within the Unemployment Insurance Tax Program. These standards have been established by the United States Department of Labor and are detailed in ET Handbook 407 - Tax Performance System.

1100 GLOSSARY

This section includes commonly used acronyms and definitions found throughout the UI Tax Policy Manual.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS:

SECTION 100

SUBJECT: PURPOSE AND SCOPE

100 PURPOSE AND SCOPE

This section outlines the federal regulations and state statutes that provide the authority for Unemployment Insurance (UI) Tax, including The Social Security Act of 1935 (Public Law 74-271) and The Federal Unemployment Tax Act of 1939 (Public Law 76-379). This section also includes mission statements for the Arizona Department of Economic Security (DES), the Division of Employment and Rehabilitation Services (DERS), and UI Tax. In conclusion, this section provides an overview of the purpose and scope of the UI Tax Program and lists the eight individual units that jointly function to complete the services provided by this program.

101 THE SOCIAL SECURITY ACT OF 1935

The Social Security Act of 1935 (Public Law 74-271) created the Federal-State Unemployment Compensation (UC) Program. This program has two main objectives:

.01 Compensation

The first objective of the UC Program is to provide temporary and partial wage replacement to involuntarily unemployed workers who were recently employed.

.02 Economic Stability

Another objective of the UC Program is to help stabilize the economy during recessions.

102 THE FEDERAL UNEMPLOYMENT TAX ACT OF 1939 (Public Law 76-379)

The Federal Unemployment Tax Act (FUTA) and Titles III, IX, and XII of The Social Security Act form the framework of the UI Tax system. FUTA imposes a 6.2% tax rate on the first \$7,000 in gross wages paid annually by covered employers to each employee. Employers with no delinquent federal loans, who pay state unemployment taxes on time, receive a 5.4% credit against the 6.2% federal unemployment tax rate.

Federal unemployment taxes finance half of the Federal-State Extended Benefits (EB) Program, and a federal account for state loans. Individual states finance their own programs and half of the EB program.

103 BASIC UNEMPLOYMENT LAWS AND REGULATIONS

The following basic unemployment laws and regulations provide the authority for the policies set forth in this document:

*	A.R.S. § 23-601	Declaration of Policy
*	A.R.S. § 23-603	Agricultural Labor; definitions
*	A.R.S. § 23-605	Base Period
*	A.R.S. § 23-606	Base Period Employer
*	A.R.S. § 23-607	Base Period Wages
*	A.R.S. § 23-608	Benefits
*	A.R.S. § 23-610	Calendar Quarter
*	A.R.S. § 23-612	Contributions
*	A.R.S. § 23-613	Employer (see Definition of Terms R6-3-1301)
*	A.R.S. § 23-613.01	Employee Definition (see Employee Defined R6-3-1723; Casual Labor R6-3-1722)
*	A.R.S. § 23-614	Employing Unit
*	A.R.S. § 23-617	Exempt Employment (see Exempting Certain Direct Sellers and Income Tax Preparers R6-3-1720; Licensed Real Estate, Insurance, Security and Cemetery Salespersons R6-3-1725)
*	A.R.S. § 23-622	Wages Defined (see wages R6-3-1705; Tips & Wages R6-3-1726; Meals or Lodging as Wages R6-3-1727; Maintenance & Inspection of Records R6-3-1702; Employer Reports R63-1703; Due Dates of Quarterly Reports, Contributions and Payment in Lieu of Contributions R6-3-1704
*	A.R.S. § 23-680	Service of Notice (last known address)
*	A.R.S. § 23-721	Work kept by Employing Unit; Inspection by Commission (see R6-3-1702)
*	A.R.S. § 23-723	Penalties for failure to file timely or complete contribution & wage reports
*	A.R.S. § 23-724	Liability determinations; review; finality (see Liability Determinations R6-3-1721)
*	A.R.S. § 23-725	Employer Coverage; Termination; Election of Coverage
*	A.R.S. § 23-728	Standard Rate of Contributions
*	A.R.S. § 23-730	Variation and Adjustment of Contribution Rates (see R6-3-1711)
*	A.R.S. § 23-733	Transfer of employer experience rating accounts to employer; liability of successor (see Business Transfers R6-3-1713)
*	A.R.S. § 23-734	Agreement by employee to pay employer contributions void
*	A.R.S. § 23-735	Requiring or accepting payments from wages to finance employer's contributions
*	A.R.S. § 23-738	Delinquency assessments; interest and penalties; petition for reassessment

*	A.R.S. § 23-738.01	Deficiency assessment; petition for reassessment
*	A.R.S. § 23-739	Jeopardy assessment; petition for reassessment
*	A.R.S. § 23-742	Adjustment or refund of contributions; limitations
*	A.R.S. § 23-743	Limitations

104 ARIZONA DEPARTMENT OF ECONOMIC SECURITY (DES) MISSION STATEMENT

The Arizona Department of Economic Security (DES) promotes the safety, well-being, and self-sufficiency of children, adults, and families.

105 DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES (DERS) MISSION STATEMENT

The Division of Employment and Rehabilitation Services is dedicated to assisting Arizonans to find and maintain meaningful work and independence and developing a skilled, productive, and resilient workforce.

106 UNEMPLOYMENT INSURANCE (UI) TAX MISSION STATEMENT

The UI Tax Program collects unemployment taxes and wage information to pay benefits to unemployed workers. We promote employers' voluntary tax compliance through fair administration, active enforcement, and prompt, courteous service.

107 UNEMPLOYMENT INSURANCE (UI) TAX PROGRAM

The UI Tax Program is responsible for the collection of Unemployment Insurance (UI) taxes and wage information from Arizona employers. This encompasses:

.01 Primary Responsibilities

- A. Registering businesses as employers in Arizona,
- B. Determining employer tax liability,
- C. Computing employer tax rates,
- D. Processing Quarterly Wage Reports and tax payments, and
- E. Requesting delinquent wage reports and collecting tax payments.

.02 Secondary Responsibilities

The related responsibilities associated with administering the primary duties of UI Tax Program include:

- A. Adjustments to wage reports and tax payments,
- B. Modifications and updates to employer accounts,
- C. Resolution of claimant disputed or misreported wage amounts,

- D. Resolution of employer disputed benefit charges, and
- E. The Employer Appeal Process.

.03 Distribution of Responsibilities

The UI Tax Program performs its responsibilities with an organizational structure comprised of the following eight units, working in conjunction and in accordance with the policies and procedures contained in this manual:

- A. UI Tax Administrative Unit
- B. UI Tax Employer Accounting Unit
- C. UI Tax Employer Status Unit
- D. UI Tax Collections Unit
- E. UI Tax Experience Rating Unit
- F. UI Tax Field Audit Unit
- G. UI Tax Appeals Unit
- H. UI Tax Imaging Unit

108 CHANGES IN POLICIES AND PROCEDURES

Manual revisions are scheduled at least quarterly. Between revisions, when policy must be changed, Employment Administration Policy Broadcasts are issued to staff through e-mail.

109 UNIT MANAGERS APPLYING REASONABLE JUDGMENT

Although this manual is written and updated based on the most current federal and state laws and regulations, there may be circumstances that are not specifically addressed. Staff are expected to research any questionable or unusual situations thoroughly, using materials available. When making any decision, staff may then consult with their supervisor to come to a reasonable decision, based on experience and knowledge of the UI Tax Program. When, after diligent research into the circumstances in question and after consultation with the supervisor and the unit manager, a decision cannot be reached, clarification may be requested through e-mail from the Employment Administration Policy & Training Unit Manager.

110 QUESTIONS REGARDING POLICY OR PROCEDURES

All staff requests for technical assistance regarding policy or procedures **that cannot be resolved after elevation to a supervisor and manager** may be submitted to the Policy & Training Unit Manager utilizing program procedures. Such requests for technical assistance must be elevated through e-mail to the Employment Administration Policy & Training Unit Manager.

111 AVAILABILITY OF MANUAL MATERIAL

The UI Tax Policy Manual (effective 07/01/2005) is used to administer the UI Tax Program. The UI Tax Online Policy Manual is available to internal users through Public Folders at DERS Policy.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



<u>UNEMPLOYMENT INSURANCE (UI) TAX PROGRAM INSTRUCTIONS:</u>

PROGRAM INSTRUCTIONS: SECTION 200

SUBJECT: UNEMPLOYMENT INSURANCE (UI) TAX ADMINISTRATIVE SUPPORT UNIT

200 UNEMPLOYMENT INSURANCE (UI) TAX ADMINISTRATIVE UNIT

This section describes the purpose and scope of the Administrative Unit, which is comprised of the management team responsible for the direct oversight of all of the units of the Unemployment Insurance Tax Section, which includes the Accounting, Appeals, Collections, Experience Rating, Field Audit, Imaging, Status Units and their support staff. This section also outlines the oversight responsibilities of the Administrative Unit for process development, monitoring and reporting necessary to ensure that the UI Tax program is in compliance with federal and state requirements. This section explains the role of the Administrative Unit for providing quality services to the employers of Arizona, other government entities and the community.

201 PURPOSE AND SCOPE

The Administrative Unit directs the statewide activities of the UI Tax Program including the planning and evaluation of the work activities and processes completed by each unit such as:

Directing employer reporting and tax responsibilities, Determining tax criteria,
Maintaining employer accounts,
Performing wage and tax audits,
Submitting quarterly benefit charge notices,
Acknowledging appeal right, and
Providing Internet resources for employers.

This unit with the collaboration and approval of the Employment Administration management team develops operational plans, long-range goals and objectives and is responsible for the allocation and utilization of staff and other unit resources.

202 FEDERAL STANDARDS

The Administrative Unit oversees every aspect of the federally mandated and regulated tax functions provided by the individual units of the UI Tax Program. Other important responsibilities include assisting in the preparation of the annual plan of service and operating budget and recommending formulation or revision of laws, regulations and rules.

203 OTHER RELATED SERVICES

The Administrative Unit oversees the managerial staff of the UI Tax Program and the operations of the UI Tax Central Office through evaluation of office performance. In doing so this unit assists the Chief of Tax in completing quarterly and yearly operational reports including the State Quality Standard Performance. This unit works with other state and federal agencies to provide and receive information through data share agreements. This includes the IRS governmental data exchange program, which extracts specific data from various IRS master files and databases. The UI Tax program must enroll each year and choose the extracts elected to receive. The extracts are used to increase revenue and compliance, and to administer our tax program more efficiently. In conclusion of the evaluation of office performance this unit completes a yearly security report.

The Administrative Unit provides quality services to the employers of Arizona through the Employer Newsletter and through formal presentations to employers or representatives. The Administrative Unit provides quality inter-agency service by completing all Custodian of Records requests.

The Central Office Manager provides information and clarification to staff, on complex issues and answers inquiries from employers and business representatives. Additional responsibilities include the following:

Approval of website additions and changes,

Approval of all refunds to employers over \$2,000,

Review and oversight of all reconsidered determinations from employer appeals, Assists in employee hiring, and

Participates in employer community outreach and education seminars.

The Field Audit Manager provides support to field offices throughout the state. This well-planned and executed field audit program coupled with other compliance activities is an effective and essential means of insuring that Unemployment Tax law and the collection of taxes are conducted on an equitable basis. A properly constituted field audit program, coordinated with related central office activities, and the judicious enforcement of penalties will bring about improved employer compliance in all areas of the unemployment insurance program. The Field Audit program works in conjunction with or supplemental to investigations of employer status, obstructed benefit claims, delinquent reports, collections, or other field investigations and is vital to the proper and efficient administration of the law. The Field Audit Manager is primarily responsible to oversee investigations and audits conducted by field auditors in connection with employers engaged in business in Arizona.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS: SECTION 300

SUBJECT: UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER ACCOUNTING UNIT

300 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER ACCOUNTING UNIT

This section describes the policies and procedures for UI Tax Accounting Technicians to follow for the Federal Unemployment Tax Act (FUTA) certification and procedures used in processing employer refunds. In addition, this section provides the mission statement for the Employer Accounting Unit. This section also contains policies for the UI Tax Employer Accounting Unit to follow in depositing employer contributions for the Arizona Job Training Tax.

301 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER ACCOUNTING UNIT MISSION STATEMENT

The Unemployment Tax (UI) Employer Accounting Unit will assure that taxes are deposited promptly and employer's transactions are processed in an accurate and timely manner through a system of internal accounting controls.

302 FEDERAL UNEMPLOYMENT TAX ACT OF 1939 (Public Law 76-379)

The Federal Unemployment Tax Act (FUTA) is the law providing Federal Unemployment Tax administered by the Internal Revenue Service (IRS) for the Department of Labor (DOL), to provide funds for administration of state unemployment insurance programs.

The Federal Unemployment Tax rate is 6.2%. Employers who pay their Arizona UI taxes timely receive a 5.4% credit on their FUTA tax. FUTA Certification provides a verification process for the IRS, UI Tax, and employers to ensure employer compliance and accurate reporting for Federal and Arizona unemployment taxes.

.01 The FUTA Certification Process

The purposes of performing the certification process for employers and the IRS are as follows.

- A. To determine that employers filing 940 FUTA reports are registered in Arizona and reporting and paying the same wages shown on the 940 FUTA report.
- B. To provide individual employers with certification for the IRS of Arizona UI tax amounts paid for specified calendar years and the timeliness of payments.
- C. The IRS identifies employers who filed their state unemployment taxes, but did not report federal unemployment taxes.

300 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER ACCOUNTING UNITDES 302.01

- D. The IRS verifies conformity between the employer's FUTA reports and Arizona UI Tax and Wage reports.
- E. Assures accuracy for the IRS in collecting the correct percentage of the employer's taxable wages for FUTA.

.02 FUTA Requirements For The UI Tax Program

The UI Tax Program is required to perform a FUTA certification process, which is initiated by the 940 Extract Tape received from the IRS each year.

- A. DTS Operations runs the tape against the information on the Employer Account Master and Transaction (EAMT) screen on TEAM to determine matches according to the following:
 - 1. The Federal Employer Identification Number (FEIN),
 - 2. The total and taxable wages, and
 - 3. The dates that taxes were paid.
- B. The possible results of the match are as follows:
 - 1. Employers have filed a FUTA report with the IRS and have filed the required wage reports with the UI Tax Program.
 - 2. Employers have filed a FUTA report with the IRS, but have NOT filed the required wage reports with the UI Tax Program.
 - 3. Employers have filed the required wage reports with the UI Tax Program, but have NOT filed a FUTA report with the IRS.
- C. It is the employer's responsibility to locate any discrepancy and make the necessary adjustments. The UI Tax Employer Accounting Unit may instruct the employer on what to look for and will provide further assistance, only if requested.

.03 Identifying The Correct Arizona Employer

In order to make proper FUTA certification for wages reported and taxes paid, it is critical that the correct employer is identified. This is accomplished by using the Federal Cross Reference (FXRF) Screen, which enables the Employer Accounting Unit to locate the Arizona employer associated with a specific Federal Employer Identification Number (FEIN).

04. Automated IRS Certification

Every October the UI Tax Central Office Manager receives magnetic tapes (940), which DTS runs to match IRS records against UI Tax records to disclose discrepancies in employer reporting between UI Tax and FUTA. The annual IRS FUTA certifications must be processed within ninety days of receipt in the Central Office. The two tapes are as follows.

- A. The 940 Tape is the primary source of the certification information as it provides the IRS with Arizona UI reporting information for the subject calendar year. A hard copy listing is provided with the tape and retained by UI Tax to answer possible questions.
- B. The FUTA State Register of Potential Non-Federal Filers (PNFF) tape provides the IRS with employers who are registered with Arizona UI and were not found on the 940 tape provided by the IRS. A hard copy listing is provided with the tape and retained by UI Tax to answer possible questions.

05. System Usage and Processing for Manual Certifications

Manual FUTA certifications are performed by Accounting Technicians when written or telephone requests are received from employers or the IRS. Employers and the IRS are the only valid sources to request FUTA certification. All requests for FUTA certifications must be processed within forty-five working days of receipt in the Employer Accounting Unit.

Each accounting technician will maintain a daily log of FUTA certification requests received using the Computerized Assessment, Reporting and Tracking System (CART) at website http://10.107.60.184/CART/ OR http://DERSIS02/CART/.

If a certification is requested for a period for which data is no longer accessible through UI Tax screens, a History File for the account will need to be requested for Program VJTEI014, using the ED-045 process.

Manual certifications are not to be processed on employer accounts, which have appeals pending or assessments that are not final.

- A. Manual FUTA certifications for data entered in TEAM will be performed using the FUTA Certification Screen (FUTA).
- B. It may be necessary to obtain data for a certification from TEAM. When both files are required, use IRS form 940B instead of TEAM or screen prints.
- C. Employers request FUTA certification by contacting the agency either by phone or in writing. Employer certification requests take precedence over requests received from the IRS. The Employer Accounting Unit will process these requests as follows:

- 1. In responding to requests by telephone, it is important that the confidentiality standards outlined below are followed:
 - a. If an employer wants to verify amounts on the telephone, accounting technicians can verify only the figures given to the unit by the employer.
 - b. The accounting technician will not provide amounts paid that are showing on the TEAM system.
 - Telephone requests for certification must be mailed to the employer's address of record, identified on the Employer Base Information Inquiry screen.
- 2. Written requests for certification must be signed by a business owner or an authorized agent of the employer shown in the UI Tax files.
- Employer's accountants must furnish a power of attorney prior to being provided any information regarding the employer's account. A copy of the power of attorney may be in the employer's Visual Information file. The federal form for power of attorney is acceptable.
- 4. An employer requesting certification in person must show valid identification.
- D. Revised requests are usually received when there is a change to the information submitted on the employer's quarterly wage report. Before the revised certification can be processed, an adjustment to the wage report must be performed. After the adjustment is processed, perform the certification process in the same manner as an original certification using the adjusted report information.
- E. IRS requests for FUTA certification are processed as follows:
 - 1. IRS will request a manual certification when information obtained from an Arizona employer does not agree with a certification provided by UI Tax.
 - IRS certifications requested by telephone are processed when the requestor is the Ogden, Utah agent. If any other IRS office requests information, a supervisor's approval is required. Be sure the IRS agent you are talking to is on the current list of authorized IRS agents.
 - 3. Written requests from the IRS are processed within forty-five working days.

300 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER ACCOUNTING UNITDES 302.05

- 4. If an adjustment has been processed, use IRS Form 940B, "Request for Verification of Credit Information Shown on Form 940" in place of the TEAM screen print.
- F. Hand certifications are required when any of the following circumstances occur on an employer's account:
 - 1. If the data displayed on the FUTA screen is not correct.
 - 2. When a History File on the account is requested because the required data has been purged from the UI Tax screens.
- G. Re-Certifications are required when any of the following occurs on an employer's account:
 - 1. If there is a difference between the wages reported to UI Tax and the wages reported to IRS, the accounting technician must perform research to determine if there was a status change on the account during the calendar year for which re-certification is requested. The following are possible sources of a discrepancy in the wages reported to UI Tax and those reported to the IRS:
 - a. Excess wages not taken.
 - b. Less than four quarters shown in the UI Tax system.
 - c. Wages reported as exempt on the 940 form.
 - 2. It is possible that the wages reported may be divided between predecessor and successor employers.
 - 3. After any necessary adjustments are made to an employer's account, the re-certification screen prints are sent to the employer.

.06 Annual Quality Review of the FUTA Certification Process

The UI Tax Program is required to perform an Annual Quality Review of the FUTA certification process. The purpose of this review is to ensure the State of Arizona sends accurate FUTA certification data to the IRS. The Annual Quality Review of the FUTA certification process begins when the State receives the IRS FUTA Publication 4485 each year in October.

- A. Upon receipt of the FUTA Publication 4485, a workgroup meets to determine if system modifications relating to the FUTA certification process are necessary based on the review of Publication 4485. This workgroup must consist of a representative from the UI Chief of Tax Office, the Employment Administration (EA) Policy Unit, the EA Management Information Systems (MIS) and the Division of Technology Services (DTS) Systems and Programming (S&P). All findings are documented on a Memorandum for Record which must include a signature page signed by all workgroup members. When completed, this memo must be sent to all workgroup members and the EA Deputy Program Administrator. When system modifications are **not** required, the Memorandum for Record will reflect that modifications are not required.
- B. When the findings of the workgroup indicate a need for system modifications the following occurs:
 - 1. MIS submits prepared documents to S&P containing the functional specifications for the required system modifications.
 - 2. S&P implements the required FUTA program modifications in a "test region" and tests the system modifications to ensure success.
 - 3. S&P verifies that system modifications were successful and runs an initial FUTA program, which produces four reports that are sent to the UI Chief of Tax or staff designated by the Chief of Tax. The four reports are:
 - a. **Unmatched Employer List** This report is used to identify if the FEIN and/or State ID numbers are accurate.
 - b. **Matched Employers** This report is used to identify all employer records in TEAM that do not have wage item transactions found.
 - One FEIN to Multiple Employers This report provides a list of records with one FEIN to multiple employers when the wages do not match.
 - d. One FEIN to One Employer This report provides a list of records with one FEIN to one employer where the wages do not match.
 - 4. The UI Chief of Tax, or staff designated by the Chief of Tax, verifies the accuracy of the reports and presents the findings to the EA MIS Supervisor.
 - a. **Accurate Reports**

When the EA MIS Supervisor is informed that the reports are accurate the following occurs:

- (1) The UI Chief of Tax, or staff designated by the Chief of Tax, updates the records in TEAM.
- (2) The EA MIS Supervisor relays the information to S&P.
- (3) The EA MIS Supervisor submits a request to DTS Operations who runs the FUTA program in the "production region" to produce the four reports *and* an additional report of random samples identifying records that have been randomly selected for IRS review.
- (4) The four reports *and* the report of random samples are sent to the UI Chief of Tax, or staff designated by the Chief of Tax, to verify accuracy of the random samples.
- (5) The sample report is reviewed by the Chief of Tax, or staff designated by the Chief of Tax, who verifies all information in the sample accurately matches the information in TEAM.
 - Note: When the random samples are verified as inaccurate, follow the procedures in "Inaccurate Reports/Inaccurate Random Samples".
- (6) The MIS Supervisor submits the valid FUTA certification results to the IRS as specified in Publication 4485. In addition, the results are sent to the Auditor General in CD form.

b. Inaccurate Reports/ Inaccurate Random Samples

When the EA MIS Supervisor is informed that either the four reports or the random samples are NOT accurate the following occurs:

- (1) The UI Chief of Tax, or staff designated by the Chief of Tax, submits all necessary information and documentation regarding the inaccuracy to EA MIS.
- (2) The EA MIS unit reviews the information and determines the source of the inaccurate results.
- (3) MIS submits their findings to S&P.
- (4) S&P makes the required FUTA program modifications in the "test region" and tests the system modifications to ensure success.
- (5) The FUTA program is ran again to produce the four reports.

- (6) The four reports are sent to the UI Chief of Tax, or staff designated by the Chief of Tax, who verifies the accuracy of the reports and submits the findings to the EA MIS Supervisor.
 - (a) When the reports are accurate, procedures in "Accurate Reports" are followed.
 - (b) If the reports are inaccurate, procedures in "Inaccurate Reports/ Inaccurate Random Samples" are followed.

303 EMPLOYER REFUND POLICIES AND PROCEDURES

The focus of this section is the policy and procedures used by the UI Tax Employer Accounting Unit to notify and refund accounts payable balances. These balances occur when an employer overpays an amount due or an adjustment is made to an account, resulting in less money owed than the amount paid by the employer. The Employer Accounting Unit Manager will also request warrant refunds for monies payable on accounts determined to be non-liable/exempt, suspended, or closed.

.01 Statutes and Regulations

The UI Tax Employer Accounting Unit must adhere to the following statutes and regulations when processing refunds:

A. A.R.S. § 23-742. Adjustment or Refund of Contribution; Limitation

Not later than three years after the date on which any contribution or interest on a contribution becomes due, an employer who has paid the contribution or interest may apply for an adjustment of the contribution or interest in connection with subsequent contribution payments, or for a refund of the contribution or interest in the event the adjustment cannot be made. If the department finds the contribution or interest, or any part of the contribution or interest, was erroneously collected, it shall allow the employer to make an adjustment, without interest, in connection with subsequent contribution payments, or if the adjustment cannot be made, the department shall refund the amount, without interest, from the fund into which payments were made. For like cause and within the same period, the adjustment or refund may be made on the initiative of the department.

Any refund or adjustment of contributions erroneously paid shall be reduced by the sum of any benefit overpayments which are attributable to the wages on which contributions are to be refunded or adjusted, except that a reduction shall not be made if it is shown to the satisfaction of the department that such contributions were required to be paid due to the fault, mistake, or omission of the department.

B. R6-3-1718. Employer Refunds

If contribution overpayment has been established, within the statutory period provided by section A.R.S. § 23-742, the Department may credit the employing unit's account or, in its discretion, refund the overpayment provided the employing unit has no report delinquency or balance due on its account.

When an overpayment to a claimant has been established as provided in A.R.S. § 23-742, and a reimbursing employer has made payment in lieu of contributions for the benefits overpaid, the Department shall give the employer credit against the employer's next quarterly statement of account of an amount not to exceed the amount recovered by the fund through offset or repayment. If the benefit overpayment was attributable to Department fault, mistake, or omission, the Department shall give the reimbursing employer a credit for the amount of the benefit overpayment, regardless of whether the overpayment has been repaid. The Department shall allow a reimbursing employer a refund of any credit balance remaining in the employer's account after the Department determines that there will be no further charges to the account.

The Department shall issue a warrant drawn on the Unemployment Compensation Fund -- Clearing Account for any employer refund.

Historical Note - Former Regulation 40-16; Amended effective March 11, 1977 (Supp. 77-2). Amended subsection (A) effective June 17, 1985 (Supp. 85-3). Amended effective December 20, 1995 (Supp. 95-4).

.02 Employer Notification

Effective the first quarter of 2005, rated employers will be notified quarterly by the **Tax and Wage Report (UC-018)** at http://www.de.state.az.us/esa/pdf/uc018b.pdf of an existing credit balance.

- A. When notified of a credit balance, the employer may do the following:
 - 1. Use the credit against taxes owed.
 - 2. Provide a written request for a refund.
- B. Written requests must be received from the following sources for the account to be eligible for refund:
 - 1. Sent to the Employer's Accounting Unit by the employer.
 - 2. Sent to the Employer's Accounting Unit by the employer's accounting firm.
 - 3. Sent to the Employer's Accounting Unit by the employer's payroll service.
 - 4. Sent to the Employer's Accounting Unit by another unit within UI Tax including a route slip signed by the Unit Manager, or
 - 5. Sent to the Employer's Accounting Unit by a Field Auditor, Collector or Tax Analyst as the result of an adjustment or appeal. Those requests from the Appeals Unit will have first priority.

.03 Tax Employer Accounting Multi System (TEAM)

For each employer account with a credit balance, the Tax Employer Accounting Multi System (TEAM) provides the following functionality:

- 1. Tracks amounts in accounts payable,
- 2. Produces a refund warrant,
- 3. Tracks the refund warrant,
- 4. Allows the Department of Labor (DOL) Accounting (ESA Budget and Planning) to clear them when paid. DOL Accounting will also be able to do the following:
 - a. Void warrants when payables are reversed.
 - b. Void warrants not cashed within a prescribed time period.
- 5. Prevents refunds during specified periods as follows:

- a. Refunds are not issued on any account during the period when employers have been notified by the issuance of a quarterly wage report of existing credit balances.
- b. Refunds are not issued until the bulk of the quarterly reports have been filed.

.04 Refund Criteria

The UI Tax Employer Accounting Unit processes employer refund requests based on the following criteria:

- A. Written request from the employer,
- B. Exempt Account program run,
- C. Authorization by a Unit Manager, or
- D. Approval of the Chief of Tax.
- E. Refunds are not issued on accounts until the following has occurred:
 - 1. The payment creating the payable amount has cleared the bank, and
 - 2. A minimum of ninety days has elapsed since the payable was received.

304 THE ARIZONA JOB TRAINING TAX

The Job Training Tax funds the Arizona Job Training Program administered by the Arizona Department of Commerce. The Arizona Job Training Program supports the design and delivery of training plans that meet unique industry standards and challenges of the individual employer. The intention of the Arizona Job Training Program is to create quality employment opportunities, increase skill levels, and raise the per capita income of Arizona residents. The mission of the Arizona Job Training Program is to promote economic prosperity by providing qualified businesses with the resources to train and develop Arizona's workforce. Answers to the most commonly asked employer questions regarding the Job Training Tax can be found at website WWW.AZUI.COM. Answers to the most commonly asked employer questions regarding the Job Training Program (Department of Commerce) can be found at website WWW.COMMERCE.STATE.AZ.US.

.01 The Unemployment Tax and Wage Report (Form UC-018)

The Unemployment Tax and Wage Report (Form UC-018) is used for employer reporting and payments for UI Taxes and the Job Training Tax. Effective January 1, 2001, a **0.10%** Job Training Tax was imposed on taxable wages. Form UC-018 includes a section for the Job Training Tax and instructions on how to calculate and pay the job training tax.

.02 Depositing Funds

The monies collected by UI Tax Program include the employer's quarterly contribution and the job training tax. These employer contributions are usually received as one amount and are deposited into the Clearing Account. The UI Accounting Unit will deposit these monies into the Clearing Account in compliance with A.R.S. § 23-769 Section D, which directs that "Monies collected pursuant to this section shall not be commingled in any manner with monies collected pursuant to articles 4, 5 and 5.1 of this chapter".

These monies are <u>not</u> commingled as they are deposited in accordance with A.R.S. § 35-146 & A.R.S. § 35-147 which directs that all deposits be remitted to the state treasurer whose receipt shall show the amount, the date deposited and a unique validation number that links the deposit to accounting documents and fund details maintained in the statewide accounting system".

Through adherence to the statutory provisions, the Treasurer's office disburses funds identified by the deposit and accounting documents as Job Training Tax funds. Although the state does not require the employer to submit separate checks to fulfill their quarterly contribution and job training tax requirements, this should not be construed as commingling of funds. As specified in Article 4, the unemployment compensation fund is kept separate and apart from all other public monies or funds.

.03 Exempt Employer

Certain employer's are **exempt** from the liability. Employers included in any one of the following exempt groups **DO NOT** compute or pay the Job Training Tax:

- A. Employers choosing the reimbursement option,
- B. Employers with a tax rate of less than 0.10%, or
- C. Employers with a rate of 2.70% or HIGHER.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS: SECTION 400

<u>SUBJECT: UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER STATUS</u> UNIT

400 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER STATUS UNIT

The UI Tax status unit examiners are responsible for making employer liability determinations. This section describes the policies and procedures for Status Unit Examiners to follow when making liability determinations. This section addresses State Unemployment Tax Act (SUTA) Dumping and provides the mission statement for the Unemployment Insurance (UI) Tax Employer Status Unit. The focus of these policies and procedures are to promote uniformity and timeliness in adhering to federal time lapse criteria for completing liability determinations as outlined by the United States Department of Labor's "UI Performs".

401 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER STATUS UNIT MISSION STATEMENT

The Unemployment Tax (UI) Employer Status Unit determines employer liability, identifies and registers potentially new employers, maintains employer account status, and provides information regarding employer responsibility.

402 STATE UNEMPLOYMENT TAX ACT (SUTA) DUMPING

SUTA (State Unemployment Tax Act) dumping, one of the biggest issues facing the Unemployment Insurance (UI) Program is a tax evasion scheme where shell companies obtained, payroll from another entity with a high UI tax rate is shifted to the account with the lower rate. The entity with the higher rate is then "dumped." Such abusive schemes leave other employers making up for the unpaid tax. SUTA dumping is also referred to as state unemployment tax avoidance and tax rate manipulation.

.01 The Harmful Effects of SUTA Dumping

Under the experience rating system, employers pay unemployment taxes at rates commensurate with claims activities by their employees. Employers with high unemployment activity pay higher unemployment tax rates, and employers with lower activity pay less. Employers who engage in SUTA dumping (or other tax manipulation schemes) to avoid paying their fair share unfairly shift their costs to other employers. According to the U.S. Department of Labor, SUTA dumping is harmful because it:

- A. Compromises the integrity of the UI system.
- B. Results in an uneven playing field.
- C. Eliminates the incentive for employers to avoid layoffs.
- D. Adversely affects tax rates for all employers.

E. Costs the UI trust fund millions of dollars each year.

SUTA dumping hurts everyone. Employers, employees, and taxpayers make up the difference in higher taxes, lost jobs, lost profits, lower wages, and higher costs for goods and services.

.02 SUTA Dumping Schemes

There are several variations on the schemes some businesses use to inappropriately lower their UI tax rate. Employers should become aware of these schemes and their potential legal ramifications. Examples of SUTA dumping schemes:

A. Purchased Shell Transaction

A business with a large payroll and a high UI rate purchases a corporate shell with a low UI rate and transfers its payroll to the purchased entity.

B. Affiliated Shell Transaction

A new corporation is registered, and a small payroll is reported each year until a low or minimum UI rate is achieved. Once the low rate is achieved, large payroll amounts from another related corporation are transferred into this account.

C. New Employer Rate

An employer with a high UI rate files a registration form requesting a new employer account number, which has a lower rate (new employers pay 2.0% in Arizona), and then the payroll is transferred to the new account.

D. Reporting Under A Client's Employer Account Number

An employee leasing company or professional employer organization (PEO) with a high UI rate shifts its payroll to the account number of one of its clients with a lower UI rate.

E. High Plus High Equals Low

A high UI rate account with a large payroll is transferred into another high UI rate account with a small payroll at the beginning of the year. Since the calculation of the average base payroll is on a calendar year basis, only the small payroll is considered. However, the taxes from the large payroll are added to the reserve account balance as of June 30, resulting in a very low UI rate being established for the next year.

400 UNEMPLOYMENT INSURANCE (UI) TAX EMPLOYER STATUS UNIT DES 402.02

F. Partial Reserve Account Acquisition

A newly registered business applies for a partial reserve account balance of another company. When the small reserve balance is acquired, a correspondingly small average base payroll is also acquired. A related entity then shifts hundreds of millions of payroll into the small account. Because the average base payroll is tallied on a calendar year basis and reserve accounts accumulate quarterly, the result is to flood the reserve balance in relation to the small average base payroll. A minimum rate is attained in the succeeding year.

G. Buffering Potential Negative Reserve Account Charges

A company that hires temporary workers forms a new entity and obtains a separate account number. The temporary workers are paid through this account. When they are laid off and file UI claims, the newly formed company goes out of business and the negative reserve account charges get distributed to other businesses in the state. This typically occurs when a labor action is contemplated and temporary workers are hired knowing they will be laid off after the labor action. Another variation on this scheme is when a company is planning to downsize. Employees to be laid off are transferred to a subsidiary account. This buffers the reserve account of the initial company from UI charges.

.03 Is SUTA Dumping Illegal?

Employers who engage in SUTA dumping or other rate manipulation schemes knowingly misrepresent facts about their business. It is illegal under Arizona statutes to knowingly make false statements and omit material facts on UI tax documents in order to reduce UI taxes. In addition, new laws have recently been passed to combat SUTA dumping:

<u>SUTA Dumping Prevention Act of 2004</u>

Signed by President Bush in August 2004, this law requires each state to enact laws to prevent employers from inappropriately lowering the UI contribution rates. The law not only bans SUTA dumping but also levies heavy penalties on those who engage in or promote such abusive practices.

9→HB-2093

With the passage of HB-2093, which added section 23-733.01 to the Arizona Revised Statutes, Arizona now has enacted legislation as a result of the federal SUTA Dumping Prevention Act. This new law, effective August 12, 2005, provides for employers who are caught illegally lowering their UI rates to pay at the highest rate provided by law, or at their current rate plus an additional two percent, whichever is greater. The new law also provides for a \$5,000 penalty for anyone who is not an employer who knowingly advises another person or business to violate Arizona's UI rate and reporting laws. It also makes changes in the law regarding the application and transfer of UI reserve account balances. It specifies that whenever an employer transfers its business to another employer, the reserve account will be transferred if they are under common ownership, management, or control. The new law also provides that if the acquisition was for the purpose of getting a lower UI rate, the transfer will be denied.

.04 What is DES Doing to Fight SUTA Dumping?

The Department of Economic Security actively pursues and prosecutes employers who participate in SUTA dumping and other tax manipulation schemes and has the authority to subpoena records and individuals in its investigations. In addition, DES regularly conducts outreach with employers and tax advisors to ensure they are aware of these schemes and to help them avoid future legal trouble.

.05 How to Report SUTA Dumping

If you think someone is committing fraud or engaging in SUTA dumping, please report it to us immediately. All allegations of fraud are taken seriously. Please provide as much information as you can, including:

Employer name, address, and telephone number, Employer account number, What they are doing, When they started doing it, and Your name, address, and telephone number (optional).

Remember: You are a very important source of information and a critical component in the Department's efforts to combat fraud! To report fraud:

Call: (602) 248-9101 Extension 5501 or E-Mail: Employer Status Unit

403 UI PERFORMS

The United States Department of Labor's "UI Performs" is a comprehensive performance system in which state and federal government work together as partners to strengthen the UI system. The Tax Performance System, Benefit Accuracy Measurement, and Performance Measurement Review are all a part of UI Performs. The following sections devoted to the UI Tax Status Unit, focus on adhering to the UI Performs' objective for federal standards of timely completion of new status determinations and must be adhered to as follows:

The employer status unit must complete at least 70% of new status determinations within ninety days of the last day of the quarter in which the employer was determined to have met a threshold of liability under state law.

404 DETERMINING EMPLOYER LIABILITY

For any new business owner filing an *Arizona Joint Tax Application* (UC001), a determination of tax liability or exemption must be made by the UI Tax Employer Status Unit. If the employer is determined liable, an employer account must be created.

.01 Arizona Joint Tax Application (UC001) at

http://www.revenue.state.az.us/2004/74-4002_fillable.pdf

The process for determining liability begins once the UI Tax Employer Status Unit using one of the following three methods receives a UC001:

A. The Arizona Department of Revenue (ADOR)

A new business owner can submit a UC001 to the Arizona Department of Revenue (ADOR). The information is entered into the Employer Registration System (ERS) by ADOR, which results in the Arizona Joint Tax Application being sent to UI Tax electronically.

B. New Business Owner

A new business owner can submit a UC001 directly to UI Tax. This application will not interface through ERS. The application will be entered into TEAM by a status examiner.

C. Field Auditor

A new business owner will submit the UC001 and **Determination of Unemployment Liability (UC-16)** for processing by the UI Tax Employer Status Unit. The field auditor will submit any assessments for unpaid taxes to the UI Employer Accounting Unit for processing.

.02 RESEARCH

Once the status examiner has received the application, it must be reviewed for completeness and accuracy. The following research must be completed to assure accuracy:

A. Tax Employer Accounting Multi System (TEAM)

The first step in establishing a new account is to research the application on the **Tax Employer Accounting Multi System (TEAM)** to verify that the employer is not already registered with the Department. This can be done on the Federal Cross Reference screen (FXRF) by running a search on the federal ID number for the business in question. A search by name and address must also be done on Employer Search Menu screen (ESMU).

- 1. When an account is found on TEAM, the status examiner will compare this information to the information provided on the UC001. If the information differs, the examiner then compares the two application dates.
 - a. If the new UC001 predates the information on file, no action is required.
 - b. If the new UC001 has a more current date, the employer's account is revised. Once any revisions are completed, the application is scanned into the employer's documentation record in the Visual Info (VI) System.
- When there is no existing account, the examiner will review the UC001 to determine employer liability. If the employer has not provided enough information to determine liability, see Section 204 DETERMINING EMPLOYER EXEMPTION.
- B. Visual Info (VI) System

The VI system should be researched when a closed or suspended account exists on TEAM. The VI system may contain employer information not listed on TEAM; i. e., contact names and phone numbers. If the employer has not met the conditions specified under A.R.S. § 23-725, suspended employer accounts should be reopened instead of creating a new account.

C. Arizona Corporation Commission (AZCC)

4-6

The Arizona Corporation Commission (AZCC) must be researched to verify the registered legal entity or limited liability company. The company name, date of incorporation, and the corporate type (profit or non-profit) entered on TEAM must exactly match the information in AZCC.

D. UC-001 Tracking

The UC-001 Tracking System will show any documents that have been previously processed or sent to a field audit office.

E. Employer Registration System (ERS)

The ERS is an application processing system and should be researched to determine if there have been any additional applications submitted by the employer and processed through this system. For instructions on system usage refer the ERS Guide available in the public folders.

.03 THE CONCEPTS OF EMPLOYER LIABILITY

It is important to understand the following basic concepts of employer liability when making a liability determination.

A. Employer

Statutory authority A.R. S. § 23-613 defines an employer as all inclusive of the following information. In Arizona, liable employers pay unemployment taxes on the first \$7000 in wages paid to each employee in a calendar year. An employer can be an individual, partnership, corporation, or any other legal entity for which a worker performs a service. A new business owner qualifies as an employer if any of the following conditions are met:

- 1. Pays wages of at least \$1500 during a calendar quarter.
- 2. Employs at least one worker for some part of a day in each of twenty different weeks in a calendar year.
- 3. Acquires the business or part of the business of an employer subject to unemployment taxes.
- 4. Is required to pay Federal Unemployment Tax because the business owner employs individuals in another state(s) for any other reason.
- 5. Owns or controls two or more businesses in Arizona which together meet any of the other conditions described here.
- 6. Pays domestic workers at least \$1000 cash wages in a calendar quarter.
- 7. Pays agricultural workers at least \$20,000 cash wages in a calendar quarter.
- 8. Employs at least ten agricultural workers for some part of a day in each of twenty different weeks in a calendar year.

- 9. Is a nonprofit organization exempt under section 501(c)(3) of the Internal Revenue Code, and employs four or more workers for some part of a day in each of twenty different weeks in a calendar year.
- 10. Voluntarily elects to provide unemployment coverage to his or her workers even though it is not required.
- 11. Owns or controls a leasing or temporary services business that leases or provides workers to other businesses.
- 12. Is an Indian tribe including any subdivision, subsidiary, or business enterprise wholly owned by the Indian tribe.

B. Employment Relationship

The relationship between a business owner and a worker determines whether that worker is an employee. An employment relationship exists when a worker performs services that are subject to control, or right to control, whether or not the employer exercises this control.

The services may be performed on a full-time, part-time, temporary, seasonal, or probationary basis. Services may be performed on or off the premises of the business or in an employee's own home. An employee can work in more than one state. The following guidelines will help to report wages to the appropriate state:

- 1. If an employee works **only** in Arizona, report the wages and pay taxes to Arizona, whether or not the employer's business is located in Arizona.
- 2. If an employee works **only** in another state, report the wages and pay taxes to that other state, even if the business is located in Arizona.
- 3. If an employee works **primarily** in Arizona and only **occasionally** in another state, report the wages and pay taxes to Arizona whether or not the employer's business is located in Arizona.
- 4. If an employee works **equally** in two or more states, report the wages and pay taxes to the state that contains the employee's base of operations, or the state from which the services are directed and controlled (usually the state in which the employer and business is located).

C. Exempt Employment

Employees are included under the unemployment insurance law, unless their services are specifically excluded. If a service is excluded, it is not counted in determining employer liability. The following services should not be included on the quarterly wage reports:

- 1. Insurance, real estate, cemetery, and securities salespersons paid solely by commission.
- 2. A sole proprietor's spouse, parents, or children under 21 years of age.
- 3. In a partnership the relationship must extend to both/all partners. For example, parents of brothers in a partnership are exempt when the partnership consists only of those brothers. Parents of a partner in other partnerships are not exempt.
- 4. Students in an academic work experience program performing services as part of the school's academic program.
- 5. Income tax preparers paid solely by commission.
- 6. Direct sellers of consumer goods, paid solely by commission, who solicit orders or make sales in person in the customer's home.
- 7. Students in regular attendance at the educational institution that employs them, or spouses of students, if the spouses are employed as part of a financial assistance program for the students.
- 8. Individuals under 18 years of age who deliver or distribute newspapers or shopping news to customers.
- 9. Patients of a hospital performing services for the hospital.
- 10. Student nurses performing services for a hospital or a nurse's training school or an intern employed by a hospital.
- 11. Individuals hired for a one-time, short-term job, generally for less than thirteen days in a calendar quarter, when there is no intent for continuing employment.
- 12. Service performed for a non-profit organization if payment for the service is less than \$50 in a calendar quarter.
- 13. Other services described in A.R.S. § 23-613.01 and A.R.S. § 23-617.

D. Exempt Wages

All payments to employees for services are wages and must be reported (before deductions) on the Quarterly Wage Report. Unless specifically excluded by law, employers must report salaries, commissions, bonuses, fees, fringe benefits, sick pay, deferred compensation, tips reported to you by your employees, and the cash value of payments in any medium other than cash, *i. e.*, gifts. Employer contributions (to the extent elected by the employee) to 401(k) plans are also wages. The following payments, excluded by law, should **not** be reported on the quarterly wage report:

- 1. Payments made to a plan for insurance (or payments from a plan to employees or dependents) for workers' compensation, medical or hospitalization expenses, or death.
- 2. A domestic or agricultural employee's share of FICA paid by the employer.
- 3. Long-term disability (after 6 months).
- 4. Payments made to a retired employee under certain retirement plans or payments made for an employee to a retirement plan.
- 5. Moving expenses reimbursed to employees where there is an allowable corresponding deduction under the Internal Revenue Code.
- 6. Payments made to a group legal services plan or the value of legal services for the employee or his/her dependents when there is an allowable corresponding deduction under the Internal Revenue Code.
- 7. Payments made for dependent care assistance, such as childcare, to the extent excludable from the employee's federal income tax.
- 8. Meals and lodging provided for the convenience of the employer.
- 9. Survivor benefits.
- Scholarships and fellowship grants provided by non-profit or governmental employers to the extent allowed under the Internal Revenue Code.
- 11 Tuition reduction to employees of educational institutions.
- 12. Services provided to employees, at no additional cost, such as free stand-by flights to airline employees.
- 13. Employee discounts up to 20%.

- 14. Working condition fringe benefits, which if provided by the worker, would be deductible business expenses, e.g., the value of a company car used for business purposes.
- 15. Fringe benefits of minimal or insignificant value such as complementary coffee and tea provided by the employer for his/her employees.
- 16. On-sight athletic facilities provided for employees.
- 17. Payments for agricultural labor in any medium other than cash.
- 18. Payments for services not in the course of the trade or business in any medium other than cash.
- 19. Amounts excluded from the definition of wages for purposes of the Federal Unemployment Tax Act (FUTA).

.04 Determining The Coverage Start Date

The coverage start date is the earliest date in the calendar year in which liability was met and from which an employer must begin to report wages. Coverage start dates differ depending upon the type of employing unit and the type of liability criteria met. Use the following guide to determine start dates by selecting the applicable item below and following the instructions:

A. Weeks/Wages

- 1. Sole Proprietorship/Partnership The date employees were first hired or the first day of the calendar year in which liability was met, whichever is later.
- 2. Corporation A corporation's start date can be determined by whichever of the following occurs later:
 - a. The date of incorporation.
 - b. The first day of the quarter in which wages of \$1500 or more are first paid.
 - c. The first of the calendar year in which liability is established.
- 3. Limited Liability Company Since a non-member manager, who is a natural person, is presumed in employment beginning with the file date of the Articles of Organization, it is possible to have twenty weeks of employment without wages being paid. The start date for a limited liability corporation is to be the first day in the calendar quarter in which wages were first paid.

- 4. Common Ownership or Control If more than 50% of two employing units are commonly owned or controlled, the following two conditions may be used to determine liability:
 - a. If one employing unit is liable, then the other unit is liable as soon as employees are hired.
 - b. If neither unit is liable and employees have been hired, add the wages and weeks of employment (counting each calendar week only once) for all employees to determine if liability has been met.
- 5. Non-Profit Organization The date employees were first hired or the first day of the calendar year in which liability was met, whichever is later.
- 6. Governmental Entities The date employees are first hired.
- 7. FUTA The date employees are first hired in Arizona. In the case of a corporate officer performing services in Arizona, the date the services began in Arizona or the first day of the calendar quarter in which wages are paid to a corporate officer in Arizona, whichever is later.
- 8. Voluntary Election An employing unit that does not meet liability may elect coverage, or an employing unit may elect to cover exempt services. The start date is the date employees were first hired.
- 9. Ownership Change/Liable Portion Transfer The date the business was acquired in whole or in part.

.05 Determining The Liability Established Date

The liability established date is the earliest date in a calendar year when an employing unit meets its liability criteria. Although liability may not be established until later in the calendar year, the employer is liable for the entire calendar year and must submit wage reports for all the applicable quarters. The purpose of the liability established date is as follows:

- A. The liability established date determines when an employer must begin to submit wage reports.
- B. The liability established date determines when a penalty is assessed if the reports are late.
- C. The liability established date determines when interest begins to accrue if payment is late. If more than one liability criteria is met, use the following guide to determine the correct date.

- 1. Successorship is always used as the basis when all or a liable portion of a business is acquired by a successor, whether or not any other criteria was met. The following procedures must be followed by the examiner when processing the acquisition of a business.
 - Successor determinations can be made from either the a. Arizona Joint Tax Application (UC001) at http://www.revenue.state.az.us/2004/74-4002 fillable.pdf that shows an acquisition of a business or the Report of Change (UC-514) at http://www.azdes.gov/esa/pdf/chng.f.pdf that shows the sale of a business.
 - (1) When an application is received showing the acquisition of a business, after verifying that the predecessor account is active, the Status Examiner will:
 - (a) Research the FEIN to ensure there are no reports in suspense.
 - (b) If applicable, research the Arizona Corporation Commission to verify the date of incorporation and legal name.
 - After this initial research is completed, if the (c) predecessor employer has not submitted a Report of Change, the Examiner must contact the former owner to verify the sale and complete the following required UC-514 documentation:
 - Effective date of the sale of the i. business.
 - ii. Name of new owner/operator.
 - Name/title of the person who iii. provided the information for both the predecessor and successor to verify that there is mutual agreement regarding the business transfer and date.

- iv. If the Status Examiner contacts only one person, in addition to that individual's full name and title, there must be documentation of their authority to speak on behalf of both employers.
- If the account is closed, the Status (d) Examiner will:
 - i. Determine if the account can be reopened for the ownership change (Ref: Rule 6-3-1713 A.3).
 - ii. Complete the paperwork to reopen the account.
 - iii. Forward the documentation to the Experience Rating Unit for verification of the correct tax rate.
 - If the account cannot be reopened, a iv. new account must be established for the employer.
- (2) When a Report of Change Notice or letter is received from a predecessor employer indicating a sale of business, the Status Examiner must determine if the successor employer is established as a new employer through research in the TEAM system.
 - (a) When an account already exists in Team, review the start date of the account to determine if it preceded the acquisition or started at the same time.
 - i. When the date is the same as the sale of the former business, the Examiner must complete the paperwork to process the ownership change and close the new employer account as established in error.
 - ii. When the start date of the account is prior to the sale, the Examiner must complete the paperwork to document a transfer.

- (b) If the Examiner cannot find a match in TEAM or in the ERS Pending Application file or UC001 Tracking System that indicates the successor has submitted a UC001, the Status Examiner will mark the UC-514 with a note requesting a UC001 be mailed to the new owner/operator. The UC-514 is then placed in the Examiner's Status basket for the clerical unit to process.
- 2. If more than one criteria is met, that which was first met is used as the basis for coverage.
- D. The following guide determines the correct liability established date for each of the coverage criteria:
 - Successorship Use the date the organization, trade or business, 1. or liable portion, was acquired by the successor. This will be the calendar day following the day the predecessor's business ceased operating either in whole or in part.
 - 2. Weeks/Wages
 - For general coverage, agricultural and nonprofit a. organizations use the Saturday of the twentieth week of requisite employment.
 - b. If the date cannot be determined, use the first day of the third month of the quarter in which the requisite wages were paid or the last day of the guarter.
 - 3. FUTA – Use the date employees first begin to work in Arizona.
 - 4. Common Ownership or Control – The date employees were first hired or the liability established date of the commonly owned or controlled employer, whichever is later.
 - Governmental Entities The date employees were first hired. 5.
 - Corporations Because the services of corporate officers are 6. defined as employment, requisite employment begins with the date of incorporation. Corporations may become liable based on the following criteria.
 - As soon as there are wages paid of \$1500 or more, a.
 - b. At the end of the twentieth week, or
 - C. Use the date of acquisition when coverage is based on successorship.

- 7. Limited Liability Company Use the earliest of the following:
 - a. The first day of the third month of the quarter, or
 - b. The day \$1500 is paid, or
 - c. The last day of the quarter.
- 8. Employing units engaged in more than one type of business activity that involves a combination of activities must meet coverage requirements as follows.
 - a. If liability is based on general business activity, any domestic or agricultural activity must meet coverage requirements on its own.
 - b. If liability is based on agricultural activity any general business activity is immediately liable based on FUTA criteria.
 - If liability is based on domestic employment, any general or agricultural activity must meet coverage based on weeks/wages for that coverage type as follows.
 - (1) General coverage liability is \$1500 in wages in a calendar quarter or the employment of one individual for any portion of a day for twenty weeks in a calendar year.
 - (2) Agricultural liability is \$20,000 in wages in a calendar quarter or the employment of ten or more individuals for any portion of a day for twenty weeks in a calendar year.

.06 ENTERING A NEW EMPLOYER ACCOUNT INTO THE TEAM SYSTEM

The process for establishing new employer accounts is complete once the application has been researched, reviewed for completeness and accuracy, a liability determination has been made, and the application has been entered into the TEAM system. This entire process must be completed within the ninety-day time frame set forth by the UI Performs objective for federal time lapse.

For instructions on entering a new employer into the Team System refer to the Team Manual. An online manual will be available in the public folders as a future enhancement.

405 DETERMINING EMPLOYER EXEMPTION

Please refer to <u>DETERMINING EMPLOYER LIABILITY</u> and the <u>Employment Registration System</u> for exempt employer criteria.

.01 New Exempt Employer Account

When an application has been received from a new employer that does not provide enough information to determine employer liability, the following procedures should be used:

- A. Set up an exempt account.
- B. Set a follow-up date, using the first day of the next month.
- C. The Monthly Exempt Report Request will generate a follow-up letter asking the employer if they have met liability requirements.
- D. This process repeats itself until the employer meets the liability criteria or notifies the Department that the business has ceased to operate.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS: SECTION 500

SUBJECT: UNEMPLOYMENT INSURANCE (UI) TAX COLLECTIONS UNIT

500 UNEMPLOYMENT INSURANCE (UI) TAX COLLECTIONS UNIT

The UI Tax Collection Unit is responsible for collecting all delinquent quarterly Unemployment Insurance Tax and Wage Reports and tax payments from employers. This section describes the policies, procedures and collection methods used by the UI Tax Collections Unit, as well as penalties and interest, which are charged on delinquent employer accounts. In addition, this section discusses the collectors' responsibility of making corrections to quarterly employer wage reports and in requesting closure for active employer accounts.

501 UNEMPLOYMENT INSURANCE TAX AND WAGE REPORT

A business that is registered and has an active account with the Department of Economic Security as a rated or reimbursable employer is required to file a quarterly Unemployment Insurance Tax and Wage Report (UC-018). The following defines a business that qualifies to file the quarterly wage report:

.01 Registered Employer

A business that has filed an Arizona Joint Tax Application (UC-001) and has been assigned an Unemployment Tax Account number is a registered employer.

.02 Active Employer

An employer who currently has Arizona employment and has received written notice of a Determination of Unemployment Tax Liability indicating their Unemployment Tax Account number is an active employer.

.03 Rated Employer

An employer with an active Unemployment Tax Account who has been given a tax rate for the calendar year is a rated employer.

.04 Reimbursable Employer

Under the reimbursement payment option, the employer does not pay a quarterly tax. The employer reimburses the Department each quarter for the actual amount of UI benefits paid during the prior quarter.

502 DELINQUENT QUARTERLY WAGE REPORTS

The Department shall determine the due date of an employer's quarterly wage report and the date the account becomes delinquent by adhering to the following procedures and regulations:

.01 R6-3-1704 Due Date of Quarterly Reports, Contributions, and Payment in Lieu of Contributions

Received date

If any due date prescribed in this regulation falls on a Saturday or Sunday, or a legal holiday, the due date shall be the next following business day. Quarterly reports, contributions, and payments in lieu of contributions, if mailed, shall be considered as received on the date shown on the postmark of the envelope in which the Department receives them.

B. Regular due date

Each employing unit which is a covered employer subject to Title 23, Chapter 4, A.R.S., shall file with the Department quarterly reports on or before the due date; any employer failing to file a quarterly report when due is delinquent. Except as otherwise provided in this regulation, quarterly contribution and wage reports are due and contributions are due and payable on or before the last day of the month following the close of each calendar quarter in which the wages were paid, except that the contributions with respect to wages which are constructively paid shall be payable for the quarter in which such wages are constructively paid as provided by regulation R6-3-1705. Payments in lieu of contributions are due and payable on or before the last day of the second month following the close of each calendar quarter in which benefit claims are paid. Quarterly notification of the amount of payments in lieu of contributions due from an employer shall be mailed to his last known address following the end of each calendar quarter.

C. Due date for new employer

Quarterly contribution and wage reports due from an employer for the first time by reason of said employer's becoming subject during a current calendar year shall be deemed due on all wages paid by said employer for the preceding portion of that year on the last day of the month following the calendar quarter during which said employer became subject to Title 23, Chapter 4, A.R.S. Contributions due from such an employer who is liable for contributions shall be deemed due and payable on all wages paid by said employer for the preceding portion of that year on the same day as his quarterly contribution and wage reports for such period are due.

D. Delinquent date, and penalty, and interest

A quarterly report or contributions payment or payment in lieu of contributions which is not received on or before the due date is delinquent.

503 COLLECTION METHODS

For the purpose of collections, the UI Tax Unit considers Unemployment Insurance Wage Reports that are at least 15 days past their due date delinquent. The collector will review the account history to determine the appropriate action needed to resolve the delinquent account.

.01 Attempts to Contact The Employer

At least three attempts to contact the employer must be made when an employer account is in collections for the first time. Telephone calls, correspondence, and status and field assignments are methods used to obtain delinquent wage reports.

.02 Liens

A lien is a legal attachment of an interest in real or personal property. It prevents the sale of real property until the amount of the lien has been paid. Liens are especially effective because they become public records and remain on the taxpayer's records indefinitely. Credit reporting companies will also pick up liens from the County Recorder's office and place the lien in the customer's credit data report.

A. A lien is a permanent record and can impact an individual for the rest of their life. The UI Tax Collector shall use prudence and care to insure that the lien is appropriate for the situation. The UI Tax Collections Unit shall adhere to the following statutes when perfecting a lien against an employer:

ARS § 23-745 Lien for unpaid contributions, interest and penalties

If any contributions, payments in lieu of contributions, interest or penalties which the department is required to collect are not paid, the unpaid amounts are a lien from the date the amounts became due as determined by the department on all property and rights to property, whether real or personal, belonging to the employer or thereafter acquired by the employer.

ARS § 23-746 Superiority of lien; notice

- A. The department may perfect a lien no earlier than fifteen days after the date on which contributions; payments in lieu of contributions, interest or penalties are due.
- B. The lien imposed by section 23-745 may be perfected by the department against the employer's real property located in any county by recording a notice of lien, in the form prescribed by subsection E of this section, in the office of the county recorder.

- C. The lien imposed by section 23-745 may be perfected by the department against the employer's personal property or rights to personal property located within this state by recording a notice of lien, in the form prescribed by subsection E of this section, in the office of the secretary of state.
- D. The lien imposed by section 23-745 with accruing interest, created or perfected in the manner provided by this section, is superior to all other liens and encumbrances perfected after the date the lien arose under the provisions of section 23-745.
- E. A notice of lien recorded under this section shall specify all of the following:
 - 1. The amount of contributions, payments in lieu of contributions, interest, and penalties due.
 - 2. The periods for which such amounts are due.
 - 3. The name and last known address of the employer liable for such amounts. A copy of the notice shall be mailed to the employer's last known address.
- F. On request, the department shall provide a disclaimer of lien within three working days after the receipt of information, which establishes to the satisfaction of the department that the person identified, is not the debtor against whom such lien has been filed.
- G. If the department fails to comply with the provisions of subsection F of this section the person incorrectly identified as the debtor may bring a civil action to compel the department to provide the disclaimer of lien. The department shall be liable for all fees and other expenses of the person bringing the action against the department pursuant to section 12-348.

B. Lien Releases

When any lien established by this article has been satisfied, the department shall issue a release to the person against whom the lien is claimed. Lien releases will be processed due to payment in full, when the lien was filed while the employer was in bankruptcy, or when directed to by Management due to unusual circumstances. A partial lien release will be required when one or more parties must be released but the lien must stand or when the Department wishes to release or "uncloud the title" of real property due to a foreclosure, bankruptcy, or trustee sale.

A release is prepared and processed immediately when payment is in cash, certified funds; such as an official check, bank levy proceeds, money order, or cashier's check or paid by a title company closing escrow.

If payment is by personal or business check, a release is processed after the check has cleared the bank and sufficient time has elapsed for a charge back check to clear the State Treasurer's Office and DES Business Management Office. For this procedure, six weeks has been determined to be sufficient.

Lien Releases must be prepared for both the County and the Arizona Secretary of State. A MVD lien prevents an employer from transferring title of a vehicle while amounts are due the Department. A MVD lien must be released, if the claim is based on an Arizona Secretary of State lien that is being released.

.03 Levies

A levy is the seizure of property to satisfy amounts due the Department. The collector shall use prudence and care in determining if a levy is necessary to resolve the delinquent employer account.

- A. The UI Tax Collection Unit utilizes the following three types of levies:
 - Wage Levy

This levy can only be used against sole proprietors and general partners. This levy allows the debtor to keep fifty dollars per week for themselves and fifteen dollars per week for each dependant. Due to those parameters, the collections supervisor normally modifies the levy to a wage assignment based on an agreement with the debtor.

Bank Account or Accounts Receivable Levy

This type of levy can be used when specific assets are discovered, such as cash deposit with the Registrar of Contractors.

3. Sheriffs Levy

This type of levy should be considered the levy of last resort. Typically, a sheriff's levy will take two to six months for resolution. UI taxes will take second place to any County writ of execution (usually for property or sales tax). Maricopa County has a standard fee of two hundred and fifty dollars for levy service, regardless of results. There are also other considerations such as securing any seized items, advertising any sales and payment for towing and storage.

B. The UI Tax Collection Unit shall adhere to the following statutes when processing a levy:

ARS § 23-753 Surrender of property subject to levy; definition

- A. Except as provided in subsection B of this section, a person in possession of, or obligated with respect to, property or rights to property subject to levy on which a levy has been made, on demand of the department, shall surrender the property or rights to property or discharge the obligation to the department, except any part of the property or rights to property that is, at the time of the demand, subject to an attachment or execution under any judicial process.
- B. A levy on an organization with respect to a life insurance or endowment contract issued by the organization, without necessity for the surrender of the contract document, constitutes a demand by the department for payment of the amount described in this subsection and the exercise of the right of the debtor to the advance of this amount. The organization shall pay the amount within ninety days after service of the notice of the levy. The notice shall include a certification by the department that a copy of the notice has been mailed to the debtor at the last known address. The levy is deemed to be satisfied if the organization pays to the department the amount which the debtor could have had advanced to the debtor by the organization on the date prescribed in this subsection for the satisfaction of the levy, increased by the amount of any advance, including contractual interest, made to the debtor on or after the date the organization had actual notice or knowledge of the lien with respect to which the levy is made, other than an advance, including contractual interest, made automatically to maintain the contract in force under an agreement entered into before the organization has notice or knowledge. The satisfaction of a levy under this subsection is without prejudice to any civil action for the enforcement of any lien imposed by this chapter with respect to the contract.
- C. A person who fails or refuses to surrender any property or rights to property subject to levy, on demand by the department, is liable to the department in an amount equal to the value of the property or rights to property not surrendered, but not exceeding the amount for which the levy has been made, with costs and interest on this amount at a rate determined pursuant to section 23-736 from the date of the levy or, in the case of a levy described in section 23-752, subsection D, from the date the person would otherwise have been obligated to pay the amounts to the debtor. Any amount, other than costs, recovered under this subsection shall be credited against the liability for which the levy was made.

- D. A person in possession of or obligated with respect to property or rights to property subject to levy on which a levy has been made who, on demand by the department, surrenders the property or rights to property or discharges the obligation to the department, or who pays a liability under subsection C of this section, is discharged from any obligation or liability to the debtor with respect to the property or rights to property arising from the surrender or payment. In the case of a levy, which is satisfied pursuant to subsection B of this section, the organization is also discharged from any obligation or liability to any beneficiary arising from the surrender or payment.
- E. As used in this section "person" includes an officer or employee of a corporation, an officer, employee or elected official of this state or its political subdivisions, any agency or instrumentality of this state or a member or employee of a partnership, who as an officer, employee, elected official or member is under a duty to surrender the property or rights to property or to discharge an obligation pursuant to this section.

ARS § 23-755 Property exempt from levy

- A. The following property is exempt from levy under this article:
 - 1. Wearing apparel and schoolbooks necessary for the debtor or members of the debtor's family.
 - 2. Fuel, provisions, furniture, personal effects, arms for personal use, livestock, and poultry of the debtor not in excess of a fair market value of five hundred dollars.
 - 3. Books and tools necessary for the trade, business, or profession of the debtor not in excess of a fair market value of two hundred fifty dollars.
 - 4. Mail, addressed to any person, which has not been delivered to the addressee.
 - 5. The amount of salary, wages, or other income as is necessary to comply with a judgment order, if the debtor is required by judgment of a court of competent jurisdiction, entered before the date of levy, to contribute to the support of minor children.
 - 6. An amount payable to or received by an individual as wages or salary for personal services or as income derived from other sources during any period, to the extent that the total of the amounts payable to or received during the period does not exceed the applicable exempt amount determined under subsection D of this section.

- 7. A homestead exempt from attachment, execution and forced sale to the extent exempted by title 33, chapter 8.
- B. The officer seizing property of the type described in subsection A of this section shall appraise and set aside to the owner the amount of the property declared to be exempt. If the debtor objects at the time of the seizure to the valuation fixed by the officer making the seizure, the department shall summon three disinterested individuals who shall make the valuation.
- C. Notwithstanding any other statute, property or rights to property are not exempt from the levy provided in this article except the property specifically made exempt by subsection A of this section.
- D. The following wages, salary and other income payable to or received by an individual are exempt from levy under subsection A, paragraph 6 of this section.
 - 1. In the case of an individual who is paid or receives all of his wages, salary and other income on a weekly basis, the amount of wages, salary and other income received during the week which is exempt from levy is fifty dollars and fifteen dollars for each individual who is specified in a written statement submitted to the person on whom notice of levy is served and which is verified in such manner as the department prescribes and:
 - (a) Over one-half of whose support for the payroll period was received from the debtor.
 - (b) Who is the spouse of the debtor, or who bears a relationship to the debtor specified in section 43-1001, paragraph 3.
 - (c) Who is a minor child of the debtor but not with respect to whom amounts are exempt from levy under subsection A, paragraph 5 of this section for the payroll period.
 - 2. In the case of an individual not described in paragraph 1 of this subsection, the amount of the wages, salary and other income payable to or received during any applicable pay period or other fiscal period, as determined by the department, which is exempt from levy under subsection A, paragraph 6 of this section is an amount, determined by the department, which as nearly as possible will result in the same total exemption from levy for the individual over a period of time as allowed under paragraph 1 of this subsection if, during the period of time, the wages, salary and other income were paid or received on a regular weekly basis.

ARS § 23-756 Notice and sale of seized property

- A. Except as otherwise provided in this section, the notice of sale and sale of property seized by the department under this article shall be conducted in the manner and the time provided in title 12, chapter 9, article 7, relating to the sale of property under execution.
- B. Real property may be redeemed in the manner provided by title 12, chapter 8, article 11.
- C. The department shall notify the debtor of the date, time and location of the sale of his property or right to property with a description of the property or right to property to be sold. The notice shall be given in person, left at the dwelling or usual place of business of the debtor or sent by first class mail to the debtor's last known address, not less than ten days before the day of the sale. If the property or right to property is perishable, the department shall give notice of the sale to the debtor in the manner and within the time limits which are reasonable considering the character and condition of the property.

ARS § 23-757 Authority to release levy and return property

- A. The department may release the levy on all or a part of the property or rights to property levied on if the department determines that this action will facilitate the collection of the liability. The release shall not operate to prevent any subsequent levy.
- B. If the department determines that property has been wrongfully levied on, the department may return:
 - 1. The specific property,
 - 2. An amount of money levied,
 - 3. An amount of money equal to the amount received by the department from a sale of the property.
- C. Property may be returned at any time. An amount equal to the amount of money levied on or received from the sale may be returned at any time before the expiration of nine months after the date of the levy.

.04 Predecessor/Successor

Predecessor/Successor (S/P) actions are used after all other methods of collection have failed to resolve the delinquent employer account. S/P actions allow collectors to utilize the last available resource to collect any receivables and comply with the following statute:

ARS § 23-748 Effect upon lien of transfer of assets by delinquent

The transfer, through sale, exchange or otherwise, of a major portion of the assets of a delinquent employer shall not defeat or impair the lien in favor of the commission, and the person acquiring the assets shall be liable for payment of all delinquent contributions, interest or penalties owed by his predecessor in interest. In an action involving title to real or personal property against which the commission has or may claim a lien, the commission shall be made a party.

504 PENALTIES AND INTEREST

The UI Collections Unit shall collect penalties and interest on delinquent quarterly Unemployment Insurance Tax and Wage Reports and tax payments in accordance with the following statutes:

.01 Statutes

A.R.S. § 23-723 Penalties for failure to file timely or complete contribution and wage reports

- A. An employing unit which fails to file on or before the due date prescribed by department regulation a quarterly contribution and wage report required by the department in the administration of this chapter, shall pay to the department for each such delinquent report, subject to waiver for good cause shown, a penalty of one-tenth of one per cent of the total wages paid during the quarter, but not less than thirty-five dollars, nor more than two hundred dollars.
- B. Amounts collected as penalties under the provisions of this section shall be deposited by the department in the special administration fund.

A.R.S. § 23-736 Interest on past due contributions; deposit of interest

- A. If contributions are not paid on the date due and payable as prescribed by the commission, the whole or part thereafter remaining unpaid shall bear interest at the rate of one per cent per month, or fraction thereof, from and after the due date until payment is received by the commission, subject to waiver for good cause shown. The date as of which payment of contributions, if mailed, is deemed to have been received may be determined by such regulations as the commission may prescribe
- B. Interest collected pursuant to this section and section 23-723 shall be deposited in the special administration fund.

.02 Waiver For Good Cause

These laws also provide for a waiver of interest and penalties when good cause is shown. "Good Cause" is understood to mean that an employer exercised ordinary business care but had no control over the circumstances that caused the untimely submission of the required reports and could not be reasonably expected to anticipate and plan for such an occurrence. The following specific criteria will be used in administering this policy:

- A. Employers who believe they are entitled to waiver of penalty and/or interest should send a written request, to the Collection Unit, that such penalty and/or interest be abated. This written request must contain specific reasons they believe penalty or interest should be abated. All taxes must be paid and no delinquent reports may be outstanding at the time of the request.
- B. Examples of good cause are:
 - 1. Circumstances beyond the employer's control which do not recur each quarter, such as fire, flood, or other acts of God.
 - 2. Illness or death of the employer or person who prepares the Tax and Wage Report but only if there is no other person available who could reasonably be expected to prepare the report.
 - 3. The employer has made reasonable effort to comply and delay or failure to file was due to erroneous information given the employer by an employee of the Department.
 - 4. It can be verified that wage reports and/or payments were payments that were re-mailed to the Department within a reasonable amount of time.
 - 5. It can be verified that the reporting delay is a result of postal error, i.e., lost or delayed mail.
 - 6. The penalty or interest assessment would cause undue hardship on an elderly domestic employer.

.03 New Employer

The UI Tax Collector may consider waiving penalties and interest for a newly liable employer if BOTH the following conditions are met:

A. The employer has not exhibited a willful disregard for UI Status or Collection requirements i.e., no field assignment has been necessary to obtain status data or reports, and the employer is not negligent or unreasonably late in reporting and,

B. The employer submits all reports and taxes due within 30 days from the date the Determination of Unemployment Insurance Liability (UC-016) is issued.

.04 Installment Payment Agreement

If an employer requests an Installment Payment Agreement (IPA) in order to satisfy the debt, the total amount due including penalties, interest and fees will be included and collected.

505 ADJUSTMENTS OR CORRECTIONS

The Adjustment Report (UC-522) should be filed by the employer to submit any adjustments or corrections to employee wages previously reported on the quarterly Unemployment Insurance Tax and Wage Report (UC-018). However, when the employer cannot be contacted or is incapable of submitting the adjustments, the UI Tax Collections Unit in conjunction with the UI Tax Accounting Unit may make the appropriate correction according to the following rules and procedures:

.01 Additional Amounts Due

The UI Tax Collections Unit shall not make any adjustments that result in additional amounts due. Actions that result in additional amounts due require an amended or supplemental quarterly report submitted by the employer or an authorized department representative.

.02 Three-Year Limitation

The UI Tax Collection Unit must adhere to the following statute when making adjustments to the quarterly Unemployment Insurance Tax and Wage Report (UC-018):

A. A.R.S. § 23-742 Adjustment or Refund of Contribution; Limitation

Not later than three years after the date on which any contribution or interest on a contribution becomes due, an employer who has paid the contribution or interest may apply for an adjustment of the contribution or interest in connection with subsequent contribution payments, or for a refund of the contribution or interest in the event the adjustment cannot be made. If the department finds the contribution or interest, or any part of the contribution or interest, was erroneously collected, it shall allow the employer to make an adjustment, without interest, in connection with subsequent contribution payments, or if the adjustment cannot be made, the department shall refund the amount, without interest, from the fund into which payments were made. For like cause and within the same period, the adjustment or refund may be made on the initiative of the department.

Any refund or adjustment of contributions erroneously paid shall be reduced by the sum of any benefit overpayments which are attributable to the wages on which contributions are to be refunded or adjusted, except that a reduction shall not be made if it is shown to the satisfaction of the department that such contributions were required to be paid due to the fault, mistake, or omission of the department.

B. In certain circumstances such as cases meeting the criteria listed in the Federal Unemployment Tax Act (FUTA), it may be appropriate for the responsible supervisor to make adjustments for quarters exceeding the three-year limitation.

.03 Owner's Wages

The collector shall determine if the correction to the owner's wages will require changes to both the wage summary and wage detail portions of the report. This situation happens most often when a sole proprietor reports his own wages. In this case, the collector will submit the completed Adjustment Report (UC-522) to the UI Tax Accounting Unit to have the owner's wages removed and to adjust the wage summary.

.04 Employee Wages

The UI Tax Collection Unit will not make corrections to employee wages. The employer or the UI Tax Accounting Unit Representative should submit any adjustment involving employee wages.

.05 Wage Summary

The collector will submit a completed UC522 to the UI Tax Accounting Unit to correct excess wages. The required fields are; account number with check digit, calendar quarter ending, and employer's name. On this type of adjustment, net increase and net decrease should balance. If excess wages are increased by a specific amount, taxable wages should decrease by the same amount.

506 REQUESTING CLOSURE OF ACTIVE EMPLOYER ACCOUNTS

The UI Tax Collection Unit shall request closure of active employer accounts for the following purposes:

Permanently closing an account to prevent future delinquent reports, Prepare for write-off, Comply with bankruptcy law and procedures, and Accurately reflect the status of the account.

The UI Tax Collections Unit shall request closure of active employer accounts in accordance with the following rules and procedures:

.01 Time Frames Relating to Termination of Employer Coverage

The UI Tax Collection Unit must adhere to the following statute when requesting closure of active employer accounts:

A.R.S. § 23-725 Employer Coverage; Termination; Election of Coverage

- A. Except as provided in subsections D and E of this section, an employing unit which is or becomes an employer subject to the provisions of this chapter within any calendar year shall be deemed an employer during the whole of such calendar year.
- B. Except as otherwise provided in subsections D, E, F, G and H of this section, an employing unit shall cease to be an employer subject to this chapter:
 - 1. As of the first day of January of any calendar year:
 - a. If the department finds that during the preceding calendar year such employing unit ceased all operations for a period of thirty-five weeks and did not in any calendar quarter in such preceding calendar year pay wages for employment amounting to one thousand five hundred dollars or more, or
 - b. If the employing unit files with the department within the period from January 1 through March 31 of such year a written application for termination of coverage and the department finds that during the preceding calendar year the employing unit did not have one or more individuals in employment in twenty different weeks and did not pay wages for employment amounting to at least one thousand five hundred dollars during any calendar quarter in such preceding calendar year.
 - c. On the transfer date of an employer experience rating account resulting from transfer by an employing unit of its organization, trade or business, or substantially all the assets thereof, to a successor.
- C. For the purposes of subsection B of this section, the two or more employing units mentioned in paragraph 3, 4, or 5 of subsection A of section 23-613, shall be treated as a single employing unit.

- D. An employing unit, not otherwise subject to this chapter, which files with the department its written election to become an employer subject thereto for not less than two calendar years, shall with the written approval of such election by the department, become an employer subject thereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject thereto as of January 1 of any calendar year subsequent to such two calendar years, only if within the period from January 1 through March 31 of such year it has filed with the department a written notice to that effect.
- E. Any employing unit for which services that do not constitute employment as defined in this chapter are performed, may file with the department a written election that all such services, with respect to which payments are not required under an employment security law of any other state or of the federal government, and which are performed by individuals in its employ in one or more distinct establishments or places of business, shall be deemed to constitute employment by an employer for all the purposes of this chapter for not less than two calendar years. Upon the written approval of such election by the department, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in the approval. Such services shall cease to be deemed employment subject thereto as of January 1 of any calendar year subsequent to such two calendar years, only if within the period from January 1 through March 31 of such year the employing unit has filed with the department a written notice to that effect.
- F. Any employing unit which became an employer by reason of paragraph 2(c) of subsection A of section 23-613 because of services defined as employment under paragraph 6(b) of section 23-615, shall cease to be an employer subject to this chapter as of the first day of January of any calendar year:
 - 1. If the department finds that such employing unit ceased all operations for a period of thirty-five weeks in the preceding calendar year, or
 - 2. If the employing unit files with the department within the period from January 1 through March 31 of such year a written application for termination of coverage and the department finds that there were not twenty different days, each day being in a different calendar week within the preceding calendar year, within which such employing unit employed four or more individuals in employment subject to this chapter.
- G. Any employing unit which is an employer solely by reason of section 23-613, subsection B, shall cease to be an employer subject to this chapter as of the first day of January of any calendar year:

If the department finds that during the preceding calendar year such employing unit ceased all operations for a period of thirty-five weeks and did not in any calendar quarter in such preceding calendar year pay wages for agricultural labor amounting to twenty thousand dollars or more, or

- 1. If the employing unit files with the department within the period from January 1 through March 31 of such year a written application for termination of coverage and the department finds that during the preceding calendar year the employing unit did not have ten or more individuals employed in agricultural labor in twenty different weeks and did not pay wages for agricultural labor amounting to at least twenty thousand dollars during any calendar quarter in such preceding calendar year.
- 2. Any employing unit which is an employer solely by reason of section 23-613, subsection C, shall cease to be an employer subject to this chapter as of the first day of January of any calendar year if the employing unit files with the department within the period from January 1 through March 31 of such year a written application for termination of coverage and the department finds that the employing unit did not pay wages for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority amounting to at least one thousand dollars during any calendar quarter in the preceding calendar year.
- H. The time limitation for filing of written application for termination of coverage prescribed in subsections B, F, G and H of this section may be waived by the department if the time limitation has expired prior to the date on which a determination of liability that the employing unit is subject to this chapter has been made as provided in section 23-724.

.02 Report of Change (UC-514)

- A. In cases where the employer or their representative has completed a Report of Change (form UC-514) at http://www.azdes.gov/esa/pdf/chng.f.pdf to request closure of active employer account and mailed or faxed this form to the responsible collector. The collector will document receiving the UC-514 in the Computer Assisted Collection System (CACS) and forward the UC-514 to the UI Tax Employer Status Unit to complete the closure request.
- B. In cases where the employer or another party informs the collector that the account should be closed without sending the UC514, the responsible collector will complete the UC514 and send the closure request to the UI Tax Employer Status Unit. The box next to "Business was discontinued without being sold, leased or transferred, as of (date), must be marked by the collector and a date (mm/dd/vy) must be entered.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS: SECTION 600

SUBJECT: UNEMPLOYMENT INSURANCE (UI) TAX EXPERIENCE RATING UNIT

600 UNEMPLOYMENT INSURANCE (UI) TAX EXPERIENCE RATING UNIT

This section describes the policies and procedures of the Experience Rating Unit which determines unemployment insurance tax rates, researches and responds to benefit charge protests, and clears obstructed benefit claims due to missing wages. In addition, this section provides the mission statement for the Experience Rating Unit. In conclusion this section discusses the Shared Work Unemployment Compensation Program.

601 UNEMPLOYMENT INSURANCE (UI) TAX EXPERIENCE RATING UNIT MISSION STATEMENT

The Unemployment Insurance (UI) Tax Experience Rating Unit computes tax rates, notifies employers of benefits charged to their accounts, responds to employers' protests on tax rates and charge notices, and clears obstructed benefit claims.

602 EXPERIENCE RATING ACCOUNT

Employers pay their unemployment insurance taxes at the new employer rate of 2.00% for a minimum of the first two calendar years, sometimes three, to allow time to accumulate an experience record for the employer. After this initial period of accumulating experience, the employer is assigned a computed rate based on the Department's experience with that employer relating to benefit charges paid in proportion to the amount of taxes the employer pays. The authority for assigning experience tax rates is contained in A.R.S. § 23-730 and A.C.R.R. R6-3-1711.

An employer's account has to be potentially chargeable for benefits for a twelve consecutive calendar month period ending on June 30th of the year prior to the rate computation before they can be assigned a computed tax rate. The Experience Rating Start Date determines when new employers become eligible for a computed tax rate.

The Experience Rating Unit is responsible for employer tax rates. This chapter describes the processes necessary for establishing and maintaining tax rates for employer accounts, including combined, joint, and multiple consolidated accounts.

.01 Experience Rating Method of Tax Payment

Experience rated employers pay unemployment taxes at a computed rate commensurate with that employer's record with the UI Tax Program; the amount of taxes paid and benefits paid to former workers charged against the employer, in relation to the size of the employer's average annual taxable payroll.

As specified in A.R.S. § 23-729, new employers pay their unemployment taxes at 2.00% until they become eligible for a computed tax rate. To become eligible for a computed tax rate, an employer's account has to be potentially chargeable for benefits for a twelve consecutive calendar month period ending on June 30th of the year prior to the rate computation.

After the two or three year period of accumulating data for experience rated employers, they are assigned tax rates based on the account experience. Account experience relates to the amount of taxes paid by the employer minus the benefits paid by the Department to their former employees (Reserve Balance), as well as the employers' average annual taxable payroll (Reserve Ratio). Experience tax rates are assigned according to Reserve Ratio Tables contained in A.R.S. § 23-730, which determine tax rates for ranges of reserve ratios.

A. Experience Rating Formula

- 1. Four factors used to compute a "reserve ratio", basic cost-accounting system:
 - a. Amount of taxes paid by the employer,
 - b. Unemployment benefits charged to the employer,
 - c. Employer's average annual payroll, and
 - d. Solvency of the UI Trust Fund (adjustment that affects all employers).
- 2. The reserve ratio is the result of the ending reserve balance divided by the average taxable payroll.
 - The employer's reserve balance is the amount of contributions paid minus the amount of benefits charged, and divided by the average annual taxable payroll.
 - b. The average annual taxable payroll is the average of the taxable payroll for an account that has been chargeable for one to three years to total the reserve ratio.
 - c. The greater the reserve ratio, the lower the tax rate will be to a minimum of 0.02%.
 - d. The lower the reserve ratio, the higher the tax rate will be to a maximum of 5.40%.

B. Reserve Ratio Rate Table

The Reserve Ratio derived from applying the above formula determines the employer's tax rate based on the Reserve Ratio tables contained in A.R.S. § 23-730. There is a reserve ratio table for positive ratios, and another for negative ratios. There are also unique tables for unadjusted rates and adjusted rates.

C. Tax Rate Adjustment

The law provides an additional rate adjustment in the rate determination for all experience rated employers that controls the income rate for the UI Trust Fund; the ratio of the balance in the UI Trust Fund to the total taxable payrolls for all Arizona employers for the preceding twelve month period. Each year the fund ratio is computed for the twelve-month period immediately preceding the computation. This ratio is used to determine the required income rate for the ensuing calendar year, as provided in A.R.S. § 23-730.3.

All employer rates are adjusted proportionately if the estimated required tax yield from employers exceeds or is less than the estimated yield from the rates without adjustment. A.C.R.R. R6-3-1715 explains the computation process for adjusted tax rates.

D. Voluntary Payment to Lower Tax Rate

The statutory authority for voluntary payments is contained in A.R.S. § 23-726(C). Also, A.C.R.R. R6-3-1716 provides specific rules pertaining to voluntary payments. In the rate computation process for all experience rated accounts, the employers are provided with the amount of additional taxes required to move the employer into the next higher ratio group, to receive the next lower tax rate; or in the case of negative tax rates, the next lower ratio group, to receive the next lower tax rate. Employers are given the option to make this "Voluntary Payment" and receive the lower tax rate. Voluntary payments are not made in lieu of any tax payment, and once they have been accepted, they are not refundable.

Employers determine whether or not they will benefit from making the voluntary payment by comparing the amount of the voluntary payment required, to the potential amount of tax saving for the year resulting from the lower tax rate. Voluntary payments must be received by January 31st of the subject rate year.

E. Estimated Wages for Delinquent Quarters

For accounts with delinquent quarters for any of the twelve quarters up to the end of the second quarter of the year preceding the new rate year, the TEAM System provides estimated wages to be used in the rate computation for the delinquent quarters as required by A.R.S. § 23-731.

Determining the Estimated Wage Amount to be Used

If there have been no reports filed by the employer during the time period, the Team System selects the wages of the highest of the last three reports filed. A.C.R.R. R6-3-1711 (F) specifies that the estimates of wages provided in A.R.S. §23-731 for any delinquent quarter is "based on the best information available to the Department or the highest amount of taxable payroll reported on the last three quarterly reports submitted immediately preceding the delinquent quarter(s). However, when no reports have been filed or when the reports submitted reflect no wages paid, the estimate(s) shall be based on the average taxable wages for all experience rated employers for the prior fiscal year." The figure for average taxable wages for all experience rated employers is provided by the Research Administration about September 15th. This figure becomes the quarterly ESTIMATED WAGE.

2. Notice of Estimated Wages

Notice of Estimated Wages forms must be mailed certified to all employers with delinquent quarters for any of the subject quarters by October 16th each year, for the following rate year. A.R.S. § 23-731 specifies the employer must provide the delinquent reports within 15 days after mailing of the Notice of Estimated Wages. If reports are not received within this period, the wage estimates will be used in the rate computations. The statute also requires that subsequently received wage information can be used only to compute a higher tax rate.

F. Taxes Used to Compute Employer's Reserve Ratio.

A.C.R.R. R6-3-1711(C) specifies that the amount of contributions (tax) used to compute an employer's reserve ratio includes all contributions paid on or before July 31 or the next business day if July 31 falls on a Saturday, Sunday, or legal holiday. Contributions DO NOT include payments of interest or penalties, or payments of contributions paid on or before July 31 and subsequently refunded on or before October 31.

G. Benefit Charges Used to Compute Employer's Reserve Ratio

A.C.R.R. R6-3-1711 (D) specifies the amount of benefit charges to compute an employer's reserve ratio includes the employer's share of the amount of all checks issued on or before June 30 for the payment of benefit claims determined chargeable against the employer's account. Credits resulting from erroneous payment of benefits shall be reflected in the quarter in which the error was established.

H. Average Annual Payroll Used to Compute Employer's Reserve Ratio

A.C.R.R. R6-3-1711 (E) specifies the average annual payroll used to compute an employer's reserve ratio includes the average of the taxable wages reported on or before the following October 31, or estimates and assessments made for the required quarterly reports through the period ending June 30.

I. Statutory Rate Adjustment

A.R.S. § 23-730.3 requires, if necessary, an annual adjustment to all employer rates to ensure the income rate for the UI Trust Fund specified in a table contained in the statute. Each year, the fund ratio of the balance in the UI Trust Fund to the total taxable payrolls for all Arizona employers, is computed for the twelve-month period immediately preceding the computation.

The fund ratio is used to determine the required income rate for the ensuing calendar year. The higher the ratio, the lower the required income. All employer rates are adjusted proportionately if the estimated required tax yield from employers exceeds or is less than the estimated yield from the rates without an adjustment.

J. Experience Rating Start Date

The "EXPERIENCE RATING START DATE" is used to establish the date in which an employer's account first becomes chargeable for benefit payments. This date is either the first day of the second quarter following the end of the first quarter of wage payments after coverage begins, or the first day of the calendar quarter after the quarter in which the employer first became liable under A.R.S. § 23-613, whichever is later. The following variations should be considered in determining the experience rating start date:

- 1. The Experience Rating Start Date for successor liability is the same as the start date of the predecessor.
- 2. The Experience Rating Start Date for mergers is the earliest of the predecessor start dates.

K. General Rules for Computing Tax Rates

- 1. If the account is not eligible for a computed rate for any year, the rate will be the rate of 2.00%.
- If the account is eligible for a computed rate, and has a **positive** reserve balance but NO taxable wages, the rate for any year to
 which this rule applies will be the "13% or more" rate from the
 positive rate chart.
- 3. If the account is eligible for a computed rate, and has a **negative reserve balance** but NO taxable wages, the rate for any year to which this rule applies will be the "13% or more" rate from the negative rate chart.
- 4. If an account has no reserve, no payroll, and there have been no other accounts transferred in (acquired), the rate will be the new employer rate.

NOTE: In order for an employer to be eligible for a computed tax rate, they must have paid wages at some point. If no wages have been paid as described above, the Experience Rating date must be revised in TEAM.

- 5. Successorship When an employer acquires a business or a distinct and severable portion of a business, the successor will have the experience rating account of the predecessor used in computing their tax rate for the year following year. In the case of a severable portion transfer, the transfer of the tax rate must meet the request and approval criteria specified in A.C.R.R. R63-1713(D).
- L. Tax Rate Determinations and Appeal Rights

Tax Rate Notices (UC-603) are mailed to all rated employers by January 7th each year. There is a fifteen-day appeal period that allows employers to protest the assigned tax rate. All tax rate protests must be satisfactorily resolved within thirty days of receipt. February 28th is the deadline for mailing amended Tax Rate Notices on accounts that receive lower tax rates because of voluntary payments.

.02 Consolidated Employer Accounts

Consolidated accounts are established for business entities that require separate reporting for individually identified operations within the business, for separate employing units with common control, when the Department needs to identify different types of unemployment insurance coverage within the same employer account, or reimbursable employers controlled by the same interests. When multiple, combined, or joint employer accounts are established, a new tax rate must be computed, combining the experience of the members of the account consolidation to establish one rate for all members of the group.

A. Multiple Accounts

A single experience rating account established to permit a single employing unit to file quarterly reports using two or more account numbers for separately identifiable portions of the business.

- 1. A written request for a multiple experience rating account can be approved by the Central Office Manager effective anytime during the year in which the multiple account is requested.
- 2. Notices of Benefit Charges (Form UC-602) will identify charges to each operation. However, the tax rate for the employer is a single rate based on the combined experience of all operations.
- 3. Upon written request of the employer, one or more separate accounts in a multiple experience rating account can be closed and the experience transferred to a remaining account of the employer anytime during the year in which the request is made
- 4. When an operation that is part of a multiple account is sold or transferred, the multiple is dissolved by transferring the acquired account into the remaining account. A new account is established, as a liable portion, for the portion of the business sold. The new account receives the tax rate of the predecessor only if a Severable Portion Experience Rating Transfer is completed.
- 5. A.C.R.R. R6-3-1712 (B) provides rules pertaining to Multiple Accounts.
- 6. Calculating the Tax Rate for multiple accounts

The tax rate for multiple employer accounts will be a single rate based on the combined experience of all operations.

7. Terminating Multiple Accounts

If any part of a multiple account is sold or becomes inactive, the experience rating data for that account is transferred back to the lowest account number in the multiple. A new account is established for any successor.

B. Combined Accounts

When the Department needs to identify different types of unemployment insurance coverage within the same employer account, a combined account is established which provides separate account numbers, quarterly reports, and benefit charge notices. Combined accounts are not an employer elective. They are used administratively by the UI Tax Program for accounts with a single legal entity, meeting more than one of the criteria for unemployment insurance coverage.

a. General Coverage

Coverage on the basis of one or more individuals for twenty weeks in a calendar year, payment of \$1500 or more wages in a calendar quarter, successorship, common ownership or control, voluntary election, or coverage under the Federal Unemployment Tax Act (FUTA).

b. Agricultural Coverage

Coverage on the basis of employment of ten or more individuals in agricultural labor for twenty weeks in a calendar year or payment of cash wages of \$20,000 or more in a calendar quarter, voluntary election, successorship, or coverage under the Federal Unemployment Tax Act (FUTA).

c. Domestic Coverage

Coverage on the basis of payment of cash wages of \$1,000 or more in a calendar quarter for domestic service, voluntary election, successorship, or coverage under the Federal Unemployment Tax Act (FUTA).

- 2. A.C.R.R. R6-3-1712 (C) provides rules pertaining to combined accounts.
- 3. Calculating the Tax Rate for Combined Accounts

The tax rate for the combined employer account will be a single rate based on the combined experience of all operations.

Terminating Combined Accounts

Members of a combined experience rating account cannot voluntarily withdraw from a combined account. Only a request for termination on an already closed account can dissolve a combined account.

C. Joint Accounts

A joint experience rating account establishes a combined experience rating account for two or more employers (separate employing units) substantially (51% or more) owned or controlled directly or indirectly by the same interests.

- Employers can request establishing a joint account by submitting a written request before March 1st of the calendar year for which the joint account is being requested. The request must identify all employers to be included in the joint account, and documentation confirming that all employers are controlled by the same interests. Requestors must furnish Federal Form 851, the Federal Affiliation Schedule.
- 2. To be eligible for joint account status, the experience rating account of each member must be eligible for a computed rate. The account must have been chargeable for benefits throughout the twelve consecutive calendar months ending on June 30th of the calendar year preceding the year for which the joint account is requested.
- 3. A.C.R.R. R6-3-1712 (A) provides rules pertaining to joint accounts.
- 4. Calculating the Tax Rate for Joint Accounts

The average annual payroll for a joint experience rating account is the sum of the average annual payrolls of the members of the joint account.

5. Terminating Joint Accounts

Members of a joint experience rating account can withdraw from the joint account as of January 1st of any year by written request, after participating in the joint account for a minimum of two calendar years. The request must be received by March 1st of the year the withdrawal is sought. The member withdrawing from the joint account receives their portion of the joint experience rating account. The remaining members receive a rate based on the remaining member's experience.

A member is removed from a joint experience rating account when it has been determined that common ownership or control has ceased to exist between the member and the other accounts. The removed member receives a new experience rating account, the remaining members of the joint account retain the rate of the joint experience rating account.

D. Group Accounts

Reimbursable employers controlled by common interests. A group account provides the option for two or more reimbursable employers (separate employing units) being controlled by the same interests. The group account allows each member to individually report quarterly wages, and pay benefit charges. A.C.R.R. R6-3-1717 (D) provides rules pertaining to group accounts.

.03 TRANSFER OF AN EXPERIENCE RATING ACCOUNT

When one covered employer acquires another covered employer, a complete transfer of the business is processed. When an employer notifies the Department of the change in ownership, a Report of Changes (form UC-514) at http://www.azdes.gov/esa/pdf/chng.f.pdf is processed. This document should indicate the employer that acquired the business, as well as what business was acquired.

When the Status Unit confirms the acquisition and keys the transfer, the UC-514 is forwarded to the Experience Rating Unit. The rate for the successor for the year following the transfer may have to be re-calculated combining the experience of the two accounts.

NOTES:

As specified in A.R.S. § 23-733 (C), the experience of the accounts in a transfer is NEVER combined for the year in which the transfer occurs. For the experience of transfer accounts to be combined in subsequent years, the Department must be notified of the transfer prior to the date rates become final for the year following the acquisition (A.C.R.R. 1711 (G)).

A. Ownership Change

When an employer notifies the Department of the change in ownership a UC-514 is processed. This report should show the employer who was acquired and the employer that purchased the business. The Employer Status Unit will confirm the acquisition with the successor and predecessor and then will key the transfer on TEAM.

When a new owner acquires an entire business, the successor employer acquires the experience rating account of the predecessor. This includes the tax rate, the account number with the last digit increased by one, and liability for the debt of the predecessor.

B. Transfer

A transfer is processed when one liable employing unit acquires the entire business of another liable employing unit. The experience rating account of the predecessor is combined with that of the successor as of January 1 of the calendar year after the date of transfer. The successor retains its current rate for the year in which the transfer took place. The successor retains its own account. The account number of the predecessor is closed but remains on the EAMT file and is chained to the successor's file so that the experience rating may be combined.

The Experience Rating Unit's review of the UC-5l4 includes verifying when the department is notified of the transfer. The received date (date stamp) and the effective date of the transfer could cause a change in the current years rate. The rules for combining of the experience rating account are:

- 1. The experience rating is never combined in the year in which the transfer occurs in accordance with ARS § 23-733.C.
- 2. For the accounts to be combined in subsequent years, the department must be notified of the transfer before the rate notices are final. The rate notices become final fifteen calendar days after the mailing date in accordance with rule R6-3-1711.G.
- 3. If the department is notified before the rates are final, an amended UC-603 is issued to the employer.

C. Liable Portion Transfer

When a new owner acquires a liable portion of a business, there is no automatic transfer of the experience rating account from the predecessor to the successor. The successor employer is assigned a new account number and the standard 2.00% tax rate. The successor employer may apply for a severable portion transfer.

D. Severable Portion Transfer

A request for a severable portion transfer must be made in writing to the Experience Rating Unit by the successor within 180 days of the date of acquisition. If approved, a portion of the experience rating account of the predecessor employer will be transferred to the successor. The tax rate of the successor and the predecessor will be adjusted accordingly. The predecessor and successor are assigned new account numbers. The predecessor's old account number is closed. Employers may direct questions regarding severable portion transfers to the Experience Rating Unit.

E. Merger

A merger occurs when two or more independent covered employers combine to form a new successor business entity. When information is received about a merger, contact should be made with all employers involved to obtain accurate information about the merger before processing it in TEAM.

Immediately after Employer Status keys the merger action, the entire package is personally delivered to a Supervisor in Experience Rating. The correct tax rate is computed using the combined experience rating of all the accounts involved in the merger. The Experience Rating Start Date for the merged accounts is determined, then the package is returned to Status. The correct rate data will appear on the Determination generated the following day.

603 REIMBURSEMENT ACCOUNT

Nonprofit organizations designated as 501(C)(3) and state and local governmental entities may elect this method of tax payment provided for in A.R.S. § 23-750. Under this method of payment, the employer does not pay a quarterly tax. The employer reimburses the Department each quarter for the actual amount of benefits paid in the prior quarter.

A statement on the Determination of Unemployment Insurance Liability (UC-0I5A) advises these employing units of the reimbursement option. The Employer Status Unit processes the UC-015A by canceling the rated account established, establishing a reimbursement account, and issuing a determination.

The Determination of Payment Method for Unemployment Insurance (form UC-015B) is sent to the employer. The election form and status documents are forwarded to the Employer Status Unit where a reimbursement account will be immediately established for the employer.

The employer will be mailed the Benefit Charge Notice (UC-602B) each quarter. This identifies charges to the account for the prior quarter. The employer may protest this notice in writing within fifteen days of the mailing date to question he computation of charges. Benefit Charge protests should be directed to the Experience Rating Unit.

The Collections Unit includes a Statement of Account (UC-1 45), with the notice. This is a bill for charges and is due by the end of the second month following the quarter in which benefit payments were made.

If an employer initially chooses to pay on a tax rated basis or elects the reimbursement method, no change may be made for three calendar years. After this time, the employer may request a change from one method to another. To do so, a written request must be submitted to the Employer Status Unit 30 days prior to beginning of the year for which the change is requested.

604 BENEFIT CHARGE NOTICE (UC-602)

The Benefit Charge Notice is a quarterly statement that identifies the amount of unemployment benefits paid to former workers and the amount of these benefits charged against the employer's experience rated account. These charges are what reduce the employer's reserve balance and may result in an increase in its tax rate for the next year. The employer has rights to protest the computation of benefit charges each quarter before they become final. Employer protests should be directed to the Experience Rating Unit. These protest rights, however, are limited only to the amount of charges and cannot include whether or not the employer's account should be charged.

The Benefit Charge Notice is sent to employers to identify charges to the account for the prior quarter. The notice provides the following information:

.01 Claimant's Name

The Benefit Charge Notice provides a list for the employer of former employees who have been paid Unemployment Insurance Benefits.

.02 Benefit Year Beginning Date

The benefit year is the one-year period during which a claimant may draw benefits. Throughout this one-year period, a claimant may draw up to twenty six weeks of benefits. During periods of high unemployment, extended benefits may increase this length of time.

.03 Base-Period

The base-period is the first four of the last five completed calendar quarters prior to the claimant's benefit year beginning date and the beginning and ending quarters of the claimant's base period.

.04 Total Base-Period Wages

The total base-period wages reported by the employer are wages earned in the base-period and determine the amount of benefits a claimant is eligible to receive during the benefit year.

.05 Benefits Paid

The amount the employer is liable to pay. The employer is liable for a percentage of total benefits paid in proportion to the total amount of wages paid in the base-period. Charges for extended benefits are notated "Extended. Charges for Shared Work are notated "Shared Wk".

.06 Adjustments

Adjustments include additional benefit payments made or credits to the employer's account (credits are identified by CR). Adjustments are generally a result of a benefit audit or a redistribution of the percentage of charges between base-period employers.

.07 Combined Wages

A claimant may combine wages from two or more states to establish a claim. When Arizona wages are transferred to another state, Arizona is billed by the paying state for a portion of the benefits paid. Charges for combined wage claims are listed in the adjustment column. No entries will be shown in columns E or F since base-periods vary from state to state.

.08 Net Charges

The "Net Charges" column summarizes the adjustments and total benefits for which the employer is liable to make payments. The "Ending Balance" is the total payment due. This balance, as well as any unpaid balances from prior quarters, are listed on the attached statement of accounts.

605 REOPENING ACCOUNTS

A reopen is when an account has been suspended/inactivated and has resumed paying wages. After the Status Unit completes the necessary research and paperwork to reopen the account the information is forwarded to Experience Rating to obtain the necessary rate(s). After the rates are determined the paperwork is returned to the Status Examiner for keying.

.01 Re-open Employer Account for Resumed Employment

When an inactive or suspended employer account resumes paying wages, the experience rating data must be updated for the period of inactivity to determine the current experience rate for the business. After the reopen is keyed Experience Rating notifies the employer on the Notice of Rate Determination Letter (UC-113) of the rates and effective date of the reopen.

.02 Re-open Employer Account for Ownership Change

When a covered business that ceased having employment is acquired by a new owner who is not a covered employer, the predecessor account is re-opened to update the experience rating data to transfer to the successor.

606 TAX RATE NOTIFICATION (UC-603)

After the tax rates are computed and publicized for the new rate year in December, rate notices are mailed early in January to all rated employers assigning the tax rates for the year.

.01 Telephone Tax Rate Inquiries

The Experience Rating Unit is responsible for answering all telephone inquiries from employers about their tax rates. Each inquiry must be promptly and satisfactorily answered. If the employer does not agree with the verbal explanation of the rate or computation process they must respond in writing within 15 days of the mailing date of the UC-603.

.02 Processing Tax Rate Protests

Employers can submit within fifteen days of the mailing date of the rate notice a written request for review of their tax rate computation, if they have reason to believe the rate is not correct. The reason must be stated in the request. Written responses are prepared by Experience Rating personnel explaining why and how the assigned rate was computed. All tax rate protests must be answered within thirty days of receipt.

607 WAGE AND BENEFIT PROTESTS

The Experience Rating Unit receives benefit protests from UI Benefit Local Offices for benefit claims that are blocked due to missing or incorrect wage credit data. The Experience Rating Unit investigates to determine the correct amount of wages for the benefit claim. In some cases it is necessary to request the claimant to provide proof of earnings by sending the claimant the Request for Proof of Earnings Letter (UC-051).

If the investigation discloses that the wage amounts in dispute were reported by the employer to another state, advise the claimant by sending them a UB-331 letter. This letter advises them to call the Call Center to resolve this issue. If employment issues are involved in the protest, the protests are forwarded to the UI Tax Employer Status Unit to resolve.

When there are employment issues that require a liability determination, the Experience Rating Status specialist will also complete the necessary paperwork to set-up the employer's account. The necessary Determinations will also be issued.

.01 Requesting an Assessment for Missing Wages

While working a wage protest, it may be necessary to send a request to the Employer Accounting Unit for processing an assessment for wages not reported, or for a delinquent report if the benefit claimant is the only employee.

A. Deficiency Assessment

An Experience Rating Specialist can prepare deficiency assessments for processing by the Employer Accounting Unit when working benefit protest assignments, if they determine that quarterly reports filed by the employing unit have understated their tax liability due to omission of the claimant's remuneration.

Deficiency assessments are prepared on using the Notice of Assessment Unemployment Tax (form UC-018-A) and the Adjustment Report and the Report of Wages Paid Each Employee (form UC-20-A). Forward the completed assessment forms to the Employer Accounting Unit for processing of the assessment transaction.

B. Delinquency Assessment

An Experience Rating Specialist, working a benefit protest assignment, can prepare a delinquency assessment for processing by Employer Accounting, in circumstances where the employer has neglected to file a report, and the benefit claimant is determined to be the only employee for the quarter(s) that are delinquent.

Delinquency assessments are prepared on A Notice of Assessment Unemployment Tax and Adjustment Report (form UC-018) and A Report of Wages Paid Each Employee (form UC-20). Forward the completed assessment forms to the Employer Accounting Unit to process the assessment transaction.

608 The Shared Work Unemployment Compensation Program

The Shared Work Unemployment Compensation Program provides an alternative for employers facing the need to reduce their work force. The Shared Work program allows an employer to divide the available work or hours of work among a specified group of employees in lieu of a layoff and it allows the affected employees to receive a portion of their unemployment benefits while working reduced hours. A.R.S. Article 5.1. § 23-761, § 23-762, § 23-763, § 23-764, and § 23-765 contain the provisions for the Shared Work Unemployment Compensation program.

Employers must submit an application to participate in the Shared Work Program, subject to Department approval. The Shared Work Compensation Program is administered by the Benefit Processing Section.

The Experience Rating Unit tracks Shared Work accounts in order to perform the special tax rate computations and surcharges associated with the Shared Work Program.

.01 Requirements and Restrictions of Shared Work Plans

- A. A Shared Work Plan is limited to one year; upon request prior to the expiration date, a one-year extension may be granted. The plan must stipulate the expiration date.
- B. A Shared Work Plan must at all times include two or more employees.
- C. An employer may have more than one Shared Work Plan in effect, but separate registration and approval is required for each plan.
- D. The Shared Work employer must certify the following:
 - 1. For the duration of the plan, the reduction in hours is in place of a layoff, which would have resulted in a reduction of at least an equal number of hours of work.
 - 2. The employer or predecessor employer has paid each employee in the plan at least \$1,000 in wages in the six-month period immediately preceding the date the plan was submitted.
- E. Written approval of the plan must be obtained from the collective bargaining representative for any employee under the plan covered by a collective bargaining agreement.
- F. The Shared Work Plan must specify what changes, if any, in fringe benefits the affected employees will experience.

.02 Registration of Employers for Shared Work Program

Employers interested in Shared Work must submit a Shared Work Plan Application (form UB-400), at http://www.azdes.gov/esa/pdf/ub400.pdf including a participant listing showing the employees to be covered by the Shared Work Plan. Shared Work applications are reviewed and approved by the Benefit Processing Unit Manager.

The employer is notified of approval or disapproval of the plan, and the employer is contacted by the Benefit Process Control Unit to obtain initial claims for benefits for the employees in the plan.

.03 Special Handling Required for Shared Work Plans

Because of the unique features of the Shared Work Program, special handling is required in the Unemployment Insurance Benefits Program for the Shared Work claimants and in Unemployment Insurance Tax Program for the Shared Work employer's tax rate.

A. Unemployment Insurance Benefits Program

The Benefit Processing Unit receives applications for the Shared Work program, approves or disapproves the plans, and administers the plans for their duration. Each employee enrolled in the Shared Work program must complete an Arizona Initial Claim for Unemployment Insurance. The Benefit Processing Unit makes arrangements with the employer to arrange filing of these claims. A certification list must be submitted every two weeks for the duration of the Shared Work Plan providing the employees who are continuing in the Shared Work Status. Employees in a Shared Work Plan are not required to meet the work search requirement to receive their unemployment benefits.

B. Unemployment Insurance Tax Program

Shared work employer accounts require review prior to tax rate computations because the Shared Work Program may cause a negative reserve in the employer's experience rating account, if benefits paid to workers exceeds taxes paid by the employer. A surtax is added in the rate computation process for negative reserve employers.

The Experience Rating Unit receives a copy of the approved plan from the Benefit Processing Unit. This can be the initial approval or the approval of an extension of the plan. The plan shows the employer account number, plan number, effective dates of the plan, and the number of participants. This documentation if used by the Experience Rating Unit to complete the Shared Work Log.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS: SECTION 700

SUBJECT: UNEMPLOYMENT INSURANCE (UI) TAX FIELD AUDIT UNIT

700 UNEMPLOYMENT INSURANCE (UI) TAX FIELD AUDIT UNIT

This section describes the policies and procedures for UI Tax Auditors to use in performing the United States Department of Labor required employer audits. This section describes the purpose and scope of the Unemployment Insurance (UI) Tax Field Audit Unit and provides the Unit's mission statement.

701 UNEMPLOYMENT INSURANCE (UI) TAX FIELD AUDIT UNIT MISSION STATEMENT

The Unemployment Insurance (UI) Tax Field Audit Unit ensures accurate reporting of employment and wages by performing field audits and provides prompt, courteous service, which helps employers achieve voluntary compliance with state and federal unemployment insurance tax laws.

702 PURPOSE AND SCOPE

The United States Department of Labor requires all states to develop and maintain a Field Audit Program as a vital component to the administration of the State Unemployment Compensation (UC) System. A well-planned and cost-effective field audit program is to be executed in coordination with central office activities and other unemployment insurance field undertakings, as an efficient means of ensuring compliance with State UC law and timely collection of taxes on an equitable basis. The focus throughout this section is the duties of the UI Tax Field Audit Unit in the performance and adherence to the United States Department of Labor standards for required employer audits.

703 STATUTES AND REGULATIONS

The UI Tax Field Audit Unit must adhere to the following statutes and regulations in the performance of employer audits and investigations:

- The authority to examine the books and records of an employing unit is contained in A.R.S. § 23-721 and regulation R6-3-1702. This statute and regulation allow the auditor to examine the books when an employer refuses to allow an inspection of the records.
- The authority to take oaths is contained in A.R.S. § 23-675.
- The authority to issue subpoenas is also contained in A.R.S. § 23-675.

704 RESPONSIBILITIES OF AUDITORS

The field auditor is primarily responsible for conducting investigations and completing audits or assignments in connection with employers engaged in business in Arizona, and is additionally responsible in assisting the public or taxpayer as a representative of the Department.

As agents of the State of Arizona, auditors have special rights and responsibilities, not commonly present in normal business dealings. They must deal with employers who may be in financial difficulty, who may resent the necessity to pay taxes, and who may become agitated and highly emotional about unemployment insurance tax liability or benefit payments to former workers. By dealing with employers with understanding and a thorough knowledge of the unemployment insurance program, satisfactory results can be obtained.

The UI Tax Field Audit Unit is the most direct link between the Department and the employer. When other units in the UI Tax Program are unsuccessful in dealing with an employer, the Audit Unit is relied upon to provide the individual effort necessary to resolve any issue, from an in-depth audit to an address change. The field auditor is the representative of the UI Tax Field Audit Unit asked to provide this effort and must be well prepared and knowledgeable in all activities of the UI Tax Program.

.01 Field Audits

Under the guidelines outlined by the United States Department of Labor, a field audit is a systematic examination of an employer's books and records, using generally accepted auditing standards and procedures. The audit covers a specified period of time, often four calendar quarters, during which the employer is liable for reporting under the law or is found to be liable as a result of the audit.

A. Effective Audit Practices

An effective audit will accomplish the following:

- 1. Determine the taxable amounts of payments made by an employer for personal services and the contributions paid or payable on such amounts:
- 2. Reconcile audit findings with amounts the employer has reported to the Department, if any;
- 3. Determine interest and/or penalties due under State law;
- 4. Determine, if necessary, the employer's financial ability to meet UC tax obligations; and
- 5. Provide a cost-effective method of promoting employer's understanding of employer rights and responsibilities under State UC law.

B. Types of Business Records

The records of the following types of businesses may be examined:

- 1. A complete business entity;
- 2. An Arizona branch or division of a multi-state employer;
- 3. A branch or division of an Arizona employer assigned a special account for reporting a segment of their employment. Special accounts are multiple, combined, or joint accounts.
 - a. If the employer has separate disbursement records for each of the special accounts, the audit will encompass only that portion of the employer's records applicable to that portion of the employer's activity selected.
 - b. If the employer has only one disbursement record for all business activities, the audit will encompass the employer's total payroll for all special accounts. The auditor will then prepare an Audit Assignment and Report, (form UC-042), to reflect total payroll, identify all registration account numbers, and provide sufficient copies of the report for imaging in each special account file.

C. Quality of Records

In the absence of complete records, an audit also encompasses the establishment of liability, using supporting documentation from other sources. The methods used to establish liability may include, but are not limited to, the assemblage and substantiation of facts from:

- 1. Examination and/or reconstruction of incomplete records,
- 2. Inspection of business premises,
- 3. Examination of other governmental agency reports,
 - a. Interviews with principals and present or former employees; and
 - b. Other investigative auditing techniques.

D. Types of Audits

All audits are classified as either verification or request audits. An audit that results in a finding that necessitates the adjustment of taxes or wages is further identified as a change audit.

2. Verification Audits

The Central Office, using established selection criteria, initiates verification audits. The verification audit is an effective technique for monitoring purposes. As it is not administratively practical to audit every liable employer, criteria for selection of the verification audit is based upon indices reflecting prevalence of noncompliance or by random selection. The criteria that may be used in selecting a verification audit includes:

- a. New employers with one or two years of liability may be chosen due to a high propensity to errors in reporting.
 - (1) Employers with high employee turnover. Frequent payroll changes and transactions indicate a high propensity to errors in reporting.
 - (2) To assure inclusion of large employers in the audit program, the United States Department of Labor requires states to include 1% of the total number of required annual audits to be a large employer. A large employer is defined as an employer reporting wages paid to one hundred or more individuals during the current or preceding calendar year or an employer reporting at least \$1,000,000 in taxable payroll for the calendar year preceding the first quarter being audited. Either definition may be used in selecting large employers, as long as each large employer audit can be identified and verified by number of employees or size of payroll.
 - (3) Employers who have a sudden growth or decrease in employment, the incidence of problems in compliance is increased with these payroll fluctuations.
- b. The incidence of non-compliance in specific industries may be used in selection of verification audits.
- c. Geography, and
- d. Selection on a random basis.
- 3. Request Audits

Request audits are initiated by the Central Office or by a field audit office action. Request audits are conducted because of a known or suspected need for the audit.

E. Audit Requirements

In addition, an audit as defined must include the following minimum requirements:

Pre-Audit Interview

The pre-audit interview is conducted to obtain information about the type of legal entity and various aspects of the business activity, the bookkeeping and accounting systems maintained, the personal services required, and the method of compensation used. Additionally, the auditor will explain the purpose of the audit program and provide the employer with an opportunity to obtain answers to any questions about the Unemployment Insurance Program.

2. Scope of Audits

The scope of an audit refers to the number of quarters examined during an audit. Both verification and request audits should be for a minimum of four quarters, unless the employing unit has been in business less than four quarters. Due to time and cost factors, it is not desirable for each audit to cover the entire period of operation or the period since the last audit. In most cases it is not necessary to cover the maximum period within the statute of limitations. The audit report must contain an explanation if the scope of an audit if the audit entails more or fewer than four quarters. The audit report must cover a minimum four calendar quarters when possible.

3. Expanding The Audit

Circumstances under which an audit may be expanded include:

- a. When discrepancies found in the four-quarter sampling warrant the review of additional quarters, the auditor must justify the decision to expand the audit. The decision should be based on the following factors:
 - (1) Size of the business,
 - (2) The condition and nature of the records,
 - (3) The period during which the business has been active, and
 - (4) The amount and nature of the discrepancies discovered during the course of the audit.

700

- b. If the sample produces substantial discrepancies, the audit should be expanded as necessary to properly account for personal services. The auditor may expand the audit to include specific points in quarters outside of the test years: however, care and sound judgment should be exercised in expanding the audit.
- The audit will be expanded to cover more than four C. calendar quarters when significant audit differences are found. The following examples cover some of the reasons for expanding an audit:
 - (1) The reason for the audit implies additional quarters should be examined.
 - (2) Verifying claims for refund.
 - (3)Questionable status problems involving a large number of possible wage items appear.
 - (4) Large wage fluctuations are present.
 - The test year is not representative. (5)
 - (6) The condition of the records is questionable.
 - The employer failed to correctly report individuals (7) within the current base period.
 - The sample produces discrepancies that exceed (8)audit tolerances, or
 - (9)Audit tolerances are acceptable levels of error in wage reporting by an employer. Audit tolerances are exceeded when:
 - A firm with a yearly payroll of not more than (a) \$50,000 has underreported taxable wages by more than \$200.
 - (b) A firm with a yearly payroll of more than \$50,000 but less than \$200,000 has underreported taxable wages by more than \$400.
 - (c) A firm with a yearly payroll in excess of \$200,000 has underreported taxable wages by more than \$1,000.

d. A no-change audit will not be expanded merely because the records are readily available or a nominal amount of time would be required.

Verification of Taxable Wages 4.

The auditor will reconcile the taxable wages reported by the employer against the employer's records by verifying the correct amount of excess wages for the test year.

5. Verification of Ownership

The auditor must verify that the ownership of the business under audit corresponds with the information in the Department's records. The records must provide verification of the business entity as a sole proprietor, partnership, corporation, joint venture, or other.

6. Verification of Total Payroll

The auditor will reconcile the total payroll reported by the employer against its accounting system for the test year. The file copies of the returns at the employer's place of business should be used and verified by the auditor using the VI and TEAM systems.

7. **Examination for Unreported Wages**

The auditor will examine all disbursements and other accounting records appropriate to the employer's bookkeeping system and nature of business.

- All quarters in the test year will be examined for employers a. with fewer than fifty employees.
- b. At least one representative quarter within the test year will be examined for employers with fifty or more employees.
- All payments for personal services that were not reported C. will be scheduled on work papers for additional investigation.

8. Audit Work Papers

Audit work papers will be prepared for all audits conducted: showing details of the work performed and will be annotated to identify the employer audited. The auditor will send the finished audit work paper to the unit supervisor to ascertain that the audit was conducted in accordance with acceptable auditing standards and departmental requirements. Audit work papers will be retained in the applicable field operation's office file for two years from the date the audit was completed.

Post-Audit Interview

The results of the audit must be discussed with the employer or an authorized representative when the audit has been concluded. The auditor should obtain the employer's concurrence with the audit findings.

10. The Field Audit Report

The United States Department of Labor requires completed change and no-change audits to be documented by a written record, which contains work papers presenting evidence and supporting findings and conclusions. The audit findings will be explained and be in accordance with the specific requirements of state law, administrative rules, and procedures. All audit reports should contain sufficient information to show:

- a. The name and title of the individual with whom the purpose of the audit was discussed prior to the audit. When an employer designates a representative, the name and title of the authorizing employer and the designated representative must be recorded.
- b. How existence of the business was verified.
- c. How ownership was verified.
- d. Verification or the accuracy and completeness of payroll, including, but not limited to:
 - (1) Verification of payroll posting system,
 - (2) Reconciliation of total payroll to total wages,
 - (3) Computation of total taxable payroll, and
 - (4) Reconciliation of verified total taxable payroll to reported total taxable wages.

- What other employer records were available and examined e. and what evidence was gathered to search for misclassified workers and hidden wages, including, but not limited to:
 - (1) Contract labor records,
 - (2) Cash disbursement,
 - (3)General ledger/chart of accounts, and
 - (4) Miscellaneous account reports and records.
- f. The reason for the number of quarters audited (if more or less than four quarters);
- Name, title, and telephone number of the individual with g. whom a closeout meeting was held;
- That all monies due were collected and, if not, an h. explanation provided; and
- i. That all necessary adjustment forms were completed with the audit.

.02 Investigations

An investigation is the examination of both recorded and unrecorded facts and circumstances related to the liability or status of an employer or the status of a benefit claimant. An investigation requires the auditor to conduct fact-finding interviews or examinations of records and documents, until all issues identified or discovered in connection with an audit or assignment are resolved. While usually of less scope than the minimum standards of an audit, an investigation may well require an exhaustive examination of records to support the conclusions and determination(s) of the auditor.

Investigations require that the field auditor resolve issues involving employer liability, delinquent wage reporting, debt, employment relationships, claimant wage credit eligibility, bankruptcy, business sales and transfers, employer protests of liability, rate manipulation, tax avoidance schemes, or court orders. This section identifies the various types of assignments and other investigations conducted by the field auditor.

Investigation Requirements Α.

The UI Tax Auditor must conduct each investigation to ensure that every potential issue has been explored and properly resolved. The following general requirements must be met:

1. Employer Contact

Contact should be made with the owner, officer, or authorized representative of the organization under investigation.

2. Obtaining Information

An inquiry of sufficient depth and scope should be made to resolve the status of services, wages, individuals, or the organization, as necessary to fulfill the purpose of the assignment.

3. Reporting Investigation Results

The facts, information obtained, conclusions, and results of the auditor must be recorded on a Report of Field Auditor.

B. Assignments

Investigations result from assignments issued by the various units that comprise the UI Tax Program. Assignments are categorized and described in the following paragraphs:

1. Status Assignments

Status assignments are issued by the Employer Status Unit and involve employer coverage, successorship, and/or determinations of employment or wages. Status assignments are issued on a Status Assignment (form UC-246-D).

Completion Date

- (1) Status assignments have a completion date of thirty days following the date issued, or
- (2) When a Determination of Unemployment Insurance Tax Liability (form UC-016), is being issued, every effort should be made to complete all work necessary to issue the UC-016 within ninety days of the liability established date.

b. Completing a Status Assignment

Facts and information obtained in connection with status assignments are recorded on the UC-246-T or a Report of Field Auditor (form UC-047).

2. Benefit Protest Assignments

The Experience Rating Unit issues benefit protest assignments after unsuccessful efforts to obtain adequate information from claimants/employers to determine the employment status or amount of wages earned by a claimant. Benefit protest assignments are issued on a Benefit Assignment (form UC-246B).

a. Completion Date

Because almost all benefit protests involve obstructed claims (benefit payments withheld until earnings can be verified or properly classified), benefit protest assignments have a completion date of ten days following the date issued.

b. Use of Sworn Statements

When benefit payments are withheld pending resolution of a benefit protest and it is not possible to verify the actual wages paid or disprove the earnings alleged by the claimant, wage credits may be established on the basis of a sworn statement if:

- (1) The employing unit concerned has been determined to be a subject employer during the period for which the wages are claimed;
- (2) The employment involved does not constitute exempt employment; and
- (3) The claimant's contention is supported by competent evidence such as paycheck stubs, W-2s, signed employer statements, or sworn affidavits of other employees.

c. Completing a Benefit Protest Assignment

Facts and information obtained in connection with benefit protest assignments are recorded on the UC-246-B or a Report of Field Auditor (form UC-047).

(1) Wage protests

Wage protests require determining the proper amount of base period earnings.

(2) Record any wages earned by the claimant in covered employment during the claimant's base period.

(3) Employment Relationship Issues

Employment relationship issues require determining whether a claimant is in covered employment, exempt employment, or not in employment (self-employed or independent contractor), and results from a Request to Determine Employer - Employee Relationship (form UJ-211-A), or a request from the Experience Rating Unit, Office of Appeals.

3. Unidentified Remittance Assignments

An unidentified remittance describes the receipt by the Employer Accounting Unit of a payment from an employing unit that cannot be matched with any employing unit of record. In addition, a wage report, with or without payment, from an employing unit that cannot be matched with any employing unit of record is also included in this category. Either results in an unidentified remittance assignment when the Collections Unit is unable to obtain sufficient information to properly apply the payment or report to the correct employer account.

Completion Date

Unidentified remittance assignments have a completion date of thirty days from the date issued

b. Completing an Unidentified Remittance Assignment

The primary responsibilities in resolving unidentified remittance assignments are to determine employer coverage, employment relationships, and wages paid. In addition, the payment and/or report must be properly identified to be applied to the employer account.

4. FUTA Exception Assignments

FUTA exception assignments are generated annually by an automated process from which IRS data identifies employers that have filed FUTA wages but are not registered for state unemployment tax.

a. Completion Date

FUTA exception assignments have a completion date of thirty days from the date issued.

b. Completing a FUTA Exception Assignment

The primary responsibilities are to properly identify the employing unit using the FEIN number listed and to contact the employing unit to determine whether it is in compliance with the registration and reporting requirements of the program. Following are some of the frequent causes of the failure to match FEIN numbers reported by the IRS:

- (1) FEIN numbers can be assigned by the IRS in error, resulting in two or more numbers used by the same employing unit. The auditor must verify the correct FEIN number with the employer.
- (2) A different FEIN number may identify a change in the employing unit, often requiring a determination of successorship.
- (3) A partnership may unnecessarily apply for, and receive, a new FEIN number after a minor change in partners.
- (4) The IRS may include employing units using an Arizona mailing address or erroneously identify wages reported on an employer's Form 940 as Arizona wages.
- 5. Out-Of-State Status Assignments

Upon receipt of a request from another state or U.I. jurisdiction requesting assistance in contacting an Arizona employing unit, the Employer Status Unit will issue an out-of-state assignment on an Interstate Assignments (form UC-246-I).

Completion Date

Out-of-state assignments involving benefit protests have a completion date of ten days following the date issued.

b. Completing an Out-Of-State Assignment

The primary responsibilities are to contact the employer and obtain any information necessary to fulfill the request of the other state.

c. Forms included by the other jurisdiction with its request should be completed accurately and completely.

- d. When forms are not included by the other jurisdiction, use appropriate Arizona forms to provide the employer information necessary.
- e. The Report of Field Auditor is made on the UC-246l form or can be made on a UC-047 form.
- 6. Delinquent Wage Report Assignments

The Employer Accounting Unit issues delinquent wage report assignments during the last month of each quarter. The purpose of this assignment is to obtain one or more delinquent quarterly wage reports from an employer who has failed to respond to previous attempts to obtain the delinquent reports.

a. Completion Date

Delinquent wage report assignments have a completion date of sixty days following the date issued.

b. Completing a Delinquent Wage Report Assignment

Each delinquent quarter must be resolved by one of the following methods:

- (1) Securing a report with wages,
- (2) Securing a report with no wages,
- (3) Closing the account,
- (4) Bringing the status of the employer account up-todate, and
- (5) All status issues discovered in connection with the assignment must be resolved before the assignment is accepted as complete.
- 7. Reconsidered Determination Assignments

A reconsidered determination assignment is issued by the Appeals Unit to secure additional evidence in connection with a determination being appealed or to obtain the employer's withdrawal of appeal.

a. Completion Date

A reconsidered determination assignment has a completion date of ninety days following the date issued.

- b. The Field Audit Supervisor shall complete the following steps for a Reconsidered Determination Assignment:
 - (1) Review the basis for the appeal with the employer and secure all evidence available in connection with the issue.
 - (2) When review of the evidence secured appears to establish the accuracy of the determination, explain to the employer the basis for the determination and the opportunity to withdraw the appeal.
 - (3) If the employer chooses to withdraw the appeal:
 - Obtain a statement or letter signed by the (a) employer or person who initiated the protest, advising the Department that the request to appeal is being withdrawn, or
 - (b) Prepare a letter to the employer identifying the date of agreement, issue involved, and that it was agreed the appeal was to be withdrawn.
 - (4) If the employer does not choose to withdraw, complete a fact-finding report (form UC-246-R or form UC-047) for use by the Contributions Appeals Unit, in preparing the reconsidered determination.

C. Recording Investigation Results

The Field Auditor's report shall be the record by the Field Auditor of any conclusions and/or determinations made in connection with the investigation, the information obtained during the investigation, and the reason(s) upon which any conclusions and/or determinations were based. In addition, the report must contain any instructions needed by the central office to properly process the investigation results or take any necessary additional action.

1. Conclusions of The Auditor

> The UI Tax Field Auditor will make concise statements of the conclusions reached and any determinations issued in connection with the investigation. In addition, these statements must adequately resolve the issue(s), which initiated the investigation.

2. Information Obtained

> The UI Tax Field Auditor will record a description of the method by which information was obtained, followed by concise statements of the information in either narrative or an outline format.

Reasoning

Each conclusion reached or determination made must be based on accurate interpretation of Employment Security Law and identified in the Field Auditor's Report.

.03 Confidentiality of Information

A.R.S. § 23-722 and Department Regulations provide for the protection of confidentiality. All information in employer records is confidential and may not be disclosed to unauthorized individuals.

Field Operations supervisors and assistant supervisors are authorized to release information from the records of an employer to representatives of the Internal Revenue Service (IRS), to a representative of the Arizona Department of Revenue (DOR), to a public employee in the performance of duties requiring such information, or to the employer or employer's representative.

.04 Assisting The Public

The UI Tax Field Auditor is additionally responsible to:

- A. Answer inquiries from the general public whether in person, by telephone, or by correspondence.
- B. Respond to requests for publications, forms, or pamphlets.
- C. Inform the employer of any costs for initial publications including laws or regulations and an annual charge for mailing revisions.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS: SECTION 800

SUBJECT: UNEMPLOYMENT INSURANCE (UI) TAX APPEALS UNIT

800 UNEMPLOYMENT INSURANCE (UI) TAX APPEALS UNIT

This section provides an overview of the purpose, scope, and role of the Department in the employer appeals process. In addition, this section provides the mission statement for the Unemployment Insurance (UI) Tax Appeals Unit. The focus of this section is the policies and procedures used by the UI Tax Appeals Unit in providing written Reconsidered Determination responses to employers or employers' representatives appealing a determination made within the Department.

801 PURPOSE AND SCOPE

The following information is intended to act only as a guide to the Unemployment Insurance Tax Appeals Process before the Appeals Unit and the Appeals Board. It is important to note that the appeals process can be used by employers themselves, by attorneys representing them, or by non-attorney personnel authorized to represent them. However, the Department makes no distinction in the education or expertise expected in its proceedings. While administrative procedures are much more informal than those in a courtroom, and while legal technicalities are few, there are certain factors set by law which must be observed. These factors will be emphasized in the following materials.

.01 Limited Power of Attorney

An employer may appoint a third party to legally represent the employer before the Arizona Department of Economic Security by giving that individual a limited power of attorney. Generally, the individual representing the employer is the employer's accountant or attorney. The power of attorney (POA) is effective until terminated by the employer. However, if an out-of-state attorney not licensed by the State represents an employer, then the attorney needs to be admitted pro hac vice, or the employer may retain local counsel licensed in Arizona as provided by the following statutes and rules:

- A.R.S. § 23-674 (Procedure in rendering decisions and orders)
- A.A.C. R6-3-1502 (Appeals process, general)
- A.A.C. R6-5-7515 (Hearing proceedings)
- Arizona Supreme Court, Rule 31 (c) (1) states:

"In any proceeding before the Department of Economic Security, including a hearing officer, an Appeals Tribunal or the Appeals Board, an individual party (either claimant or opposing party) may be represented by a duly authorized agent who is not charging a fee for the representation; an employer, including a corporate employer, may represent itself through an officer or employee; or a duly authorized agent who is charging a fee may represent any party, providing that an attorney authorized to practice law in the State of Arizona shall be responsible for and supervise such agent."

- A. It is important to note that under A.R.S. § 23-674 (C): "Notwithstanding any other law, representation of a party at a hearing conducted pursuant to this section is not deemed to be the practice of law."
- B. Notice of Representation or Appearance or a POA applies only to the individual to whom it is given and may not be imputed to all members or agents of a firm.

.02 Levels in The Appeals Process

An employer's first contact with the Unemployment Tax Program comes when an Arizona Joint Tax Application is filed or a former worker files a claim for benefits. At this first level, a status examiner or tax auditor, after collecting and considering information, makes a formal determination and/or assessment of the employer's liability for UI taxes. An employer may appeal a determination and/or assessment if it adversely affects his legal rights.

After an original determination, the levels of appeal usually are:

Level 1.	Reconsidered Determination (Tax Cases)
	Appeals Tribunal Hearing (Benefit Cases)
	A 1 B 111 '

Level 2. Appeals Board Hearing
Level 3. Appeals Board Review
Level 4. Arizona Tax Court
Level 5. Arizona Court of Appeals

.03 Determinations and Assessments

Following the filing of an Arizona Joint Tax Application or a claim for Unemployment benefits, a status examiner or field auditor will collect the facts surrounding an employer's unemployment tax liability from the employer. Information may be gathered by face-to-face interview, over the telephone, or through the mail. Operating independently, the status examiner or field auditor will evaluate those facts and determine whether or not the employer is liable for unemployment taxes. If the employer is liable, a determination and/or assessment will be delivered personally or by mail.

When contacting the employer or the employer's representative, it is important for the status examiner or field auditor to obtain as much detailed information as possible. Care should be given to dates, circumstances, and conversations.

.04 Appeal to The Unemployment Insurance Tax Program

The Arizona legislature has enacted the following provisions relating to the Department's assessments and determinations made by the UI Tax Program. A.R.S. § 23-724, § 23-732, § 23-733, § 23-740, and § 23-750 provide the statutory authority of the Department to review and decide disputed UI Tax coverage, employment, wage determinations, rate and benefit charge notices, experience rating transfers and the successor's liability for the predecessor's unpaid taxes, assessments, and the amount of payments in lieu of contributions, respectively.

A. Filing the Appeal

A decision on the timeliness of an employer's protest must be determined at the outset before addressing the issue(s) raised by the employer's appeal. Generally, determinations state that they will become final unless a written request for reconsideration has been filed within the time frame specified: Fifteen days for timely and untimely appeals of refusal to grant relief pursuant to A.R.S. § 23-724 (C), benefit charge issues, tax rate issues, severable portion transfer denials, and decisions on reassessment or thirty days for timely and untimely appeals of all other tax issues.

- A.A.C. R6-3-1404 (A) (1) provides that when an appeal is mailed, the postmarked date must be considered the date the appeal was filed. However, in the absence of a postmark then the postage meter mark is considered the date of the appeal. In the event there is no postal or meter mark, or in the event the mark is illegible, then the date entered on the document is the date of completion.
- 2. A.A.C. R6-3-1404 (A) (2) provides that if transmitted by any means other than the United States Postal Service or its successor, the appeal is considered received by and filed with the Department on the date it is received by the Department.
- 3. A.A.C. R6-3-1404 (A) (3) provides that computation of time shall be made in accordance with (and limited to) Arizona Rules of Civil Procedure, Rule 6 (a). Rule 6 (a) states that if the time allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall not be included in the computation. When that period of time 11 days or more is, intermediate Saturdays, Sundays, and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday."

- 4. If the employer's correspondence is received untimely by the Department, then the Determinations of Unemployment Insurance Liability and Determinations of Liability for Employment or Wages are final, conclusive, and binding on the employer.
- 5. An employer's written explanation with supporting documents if appropriate must be filed within a "reasonable" period of time; the reasonableness of the time in which an excuse of good cause can be filed will, of course, vary according to the circumstances. If the Department deems the time in which the employer filed his excuse reasonable, then an appeal on the merits of the dispute will proceed.
- 6. An appeal will be considered late if it is filed or mailed after the fifteenth day. Unless the employer has a good reason for the late filing, the appeal will be dismissed, the prior determination or assessment will be final, and no further relief will be available to the employer within the Department or before a court of law other than by a special action.
- 7. An employer's written explanation with supporting documents will be accepted as a valid reason for filing a request for an appeal after the fifteenth day deadline when one of the following valid reasons is proven, as provided for by State law:
 - Department error or misinformation, or a.
 - b. Delay or other action of the U.S. Postal Service, or
 - Delay because the employer changed its mailing address C. at a time when there would have been no reason for the employer to notify the Department of the address change.
- B. Contents of the Appeal

Although it is sufficient at this level of appeal to merely disagree with the determination or assessment, it is to the employer's benefit to set out the reasons for the disagreement and support for each argument. The employer may appeal the following notice(s) or issue(s):

 Notice of Benefit Charges (Form UC-602A rated ER & UC-602B reimbursable ER)

Processed by the UI Tax Experience Rating Unit this notice is mailed quarterly whenever former employees have been paid unemployment benefits in the previous quarter. The employer may appeal any mathematical or clerical errors discovered by filing a written request for re-determination within fifteen days of the date of notice. The employer may not appeal any issues, which have previously become final such as a claimant's eligibility for benefits since a separate appeal process was provided for these issues. If the employer disagrees with the reconsidered determination, the employer has fifteen days to appeal in writing to the Appeals Board for two levels of appeal. Thereafter, the employer may appeal to the Arizona Tax Court, as provided for in the following statutes and rules:

- A.R.S. § 23-732 (Annual Notice to The Employer)
- A.A.C. R6-3-1708 (Employer charges)
- A.A.C. R6-3-1710 (Notification and review of charges to experience rating accounts)
- A.A.C. R6-3-1803 (Benefit notice and determination)
- 2. Notice of Unemployment Tax Rate (Form UC-145-A)

The following statutes and rules apply to the Notice of Unemployment Tax Rate:

- A.R.S. § 23-728 (Standard rate of contribution)
- A.R.S. § 23-729 (Change from the standard contribution rate)
- A.R.S. § 23-730 (Variation and adjustment of contribution rates)
- A.R.S. § 23-732 (Annual notice to employer of contribution rate)
- A.A.C. R6-3-1506 (Contribution cases)

8-5

- A.A.C. R6-3-1710 (Notification and review of charges to experience rating accounts)
- A.A.C. R6-3-1711 (Computation of experience rates)
- A.A.C. R6-3-1712 (Joint, multiple, and combined employer experience rating accounts)
- A.A.C. R6-3-1715 (Computation of adjusted contribution rates)

3. Determination of Unemployment Insurance Liability (Form UC-016)

> The Determination of Unemployment Insurance Liability is prepared and sent to the employer by the UI Tax Employer Status Unit. Upon receipt of the Department's determination regarding liability, the employer has fifteen days to file a written appeal for a Reconsidered Determination. If the employer disagrees with the Reconsidered Determination the employer has thirty days to file a written appeal to the Appeals Board for a hearing. Two appeals are available at the Board level. Thereafter, the employer may appeal to the Arizona Tax Court. The following statutes and regulations apply to employer liability determinations:

- A.R.S. § 23-724 (Liability determinations)
- A.A.C. R6-3-1713 (Business transfers)
- 4. Determination of Liability for Employment or Wages

Pursuant to A.R.S. § 23-622 taxable wages are the first \$7,000 wages in total wages paid to an employee by the employer or its predecessor in one calendar year. A successor employer can take credit for the taxable wages his predecessor paid an employee but a different employer would be required to pay taxes on the first \$7,000 for an employee who changed employers during the calendar year.

Excess wages are those wages paid to an employee in a calendar year by an employer or predecessor employer in excess of the taxable wage limit or \$7,000. Excess wages must be reported, even though not taxable because they are used to determine the proper amount of benefits available to a claimant. The \$7,000 limit established by federal law has been the same since 1983.

Excess wages are computed on a calendar year basis only and do not carry over to another year therefore, every reportable employee will be paid taxable wages in the first quarter of the year. The following statutes and regulations apply to determinations for employment or wages:

- A.R.S. § 23-615 (Employment)
- A.R.S. § 23-622 (Wages)
- A.R.S. § 23-727 (Credits and charges to employer accounts)
- A.A.C. R6-3-1721 (Liability determination; review; finality)
- A.A.C. R6-1726 (Tips as wages)

Exclusions from Employment a.

> The following statutes and regulations apply to exclusions from employment:

- A.R.S. § 23-613.01 (Employee; definition; exempt employment)
- A.R.S. § 23-615 (Employment)
- A.A.C. R6-3-1720 (Exempting certain direct sellers and income tax preparers)
- A.A.C. R6-3-1722 (Casual labor)
- A.A.C. R6-3-1725 (Licensed real estate; insurance; security and cemetery salesmen)
- b. **Employment**

The following statutes and regulations apply to employment:

- A.R.S. § 23-603 (Agricultural labor)
- A.R.S. § 23-615 (Employment)
- A.A.C. R6-3-1723 (Employee defined)
- 5. Deficiency, Delinquency or Jeopardy Assessments (Form UC-018A, Form UC-020-A and Form UC-022)

The Unemployment Insurance Tax Program sends either the Deficiency, Delinquency or Jeopardy Assessment notice to an employer when it has been determined that quarterly employer wage reports are delinquent (have not been received) or are deficient (incomplete) in some way. The employer has fifteen days to file a written appeal requesting a reassessment.

- The following statutes and regulations apply to deficiency, a. delinquency or jeopardy assessments:
 - A.R.S. § 23-613.01 (Employee)
 - A.R.S. § 23-615 (Employment)
 - A.R.S. § 23-617 (Exempt employment)
 - A.R.S. § 23-622 (Wages)
 - A.R.S. § 23-652 (Publications by commissions)
 - A.R.S. § 23-731 (Classification of employers)
 - A.R.S. § 23-736 (Interest on past due contributions)
 - A.R.S. § 23-738.01 (Deficiency assessment)
 - A.R.S. § 23-739 (Jeopardy)
 - A.R.S. § 23-740 (Procedure for petition for reassessment)
 - A.R.S. § 23-745 (Lien)

- A.A.C. R6-3-1404 (Date of submission and extension for time)
- A.A.C. R6-3-1711 (F) (Computation of experience rates)

b. Delinquency Assessment

- (1) If the employer has not filed a timely appeal within fifteen days, the Department shall file a lien imposed by A.R.S. § 23-745.
- (2) If an employer has filed a timely appeal, then under A.R.S. § 23-740 and A.R.S. § 23-724, the Department shall reconsider the assessment and render a decision (a Reconsidered Determination). The Department may increase or decrease the amount of any assessment under review.
- (3) Interest is assessed through the current month when the assessment becomes final in accordance with A.R.S. § 23-736. An employer's request for waiver may be granted if good cause is shown.
- (4) A penalty fee is also assessed based on untimely reports or assessments of one-tenth of one percent of the total wages, but not less than \$35 and not more than \$200 in accordance with A.R.S. § 23-723. An employer's request for waiver may be granted if good cause is shown.

c. Jeopardy Assessment

The Department will make an administrative decision to impose a jeopardy assessment if the Department believes that the employer may delay the process of filing a return.

- (1) Under § A.R.S. 23-738 (A) if the employer neglects or refuses to submit a timely report, the Department shall make an estimate based upon the information in its possession of the amount of contributions, interest and penalties due.
- (2) Under § 23-739 (B), the employer has ten days to petition for reassessment together with payment of the amount assessed.
- (3) However, if the employer petition is untimely, A.A.C. R6-3-1404 (B) provides that the Department will issue an appealable decision.

- (4) The employer then has 15 days from the date of the Department's decision to submit a written request for a hearing with the Department on the issue of timeliness.
- 6. Experience Rating Transfer (All or Part) (Form UC-016(C) and UC-247)

Experience Rating Transfers are processed by the Experience Rating Unit and encompasses successorship.

- A successorship case may involve all or part of three a. elements:
 - (1) Succession or acquisition of a predecessor's organization, trade or business, or substantially all the assets.
 - (2) Continuation of the predecessor's organization, trade, or business.
 - Value of the predecessor's organization, trade, (3)business, or assets succeeded to or acquired.
- b. The following statutes and regulations apply to experience rating transfers:
 - A.R.S. § 23-733 (Transfer of employer experience rating accounts to successor)
 - A.A.C. R6-1713 (C) (Experience rating transfer
- 7. Successor Debt Liability (Form UC-016B)
 - Generally, predecessor/successor actions are processed a. in the following order:
 - Determination of Unemployment Insurance Liability (1) as a Successor (Form UC-016B).
 - (2) Determination and Demand for Payment of Predecessor Debt (Form UC-216A).
 - Notice and Claim of Lien for Predecessor Amounts (3)(Form UC-143A).
 - Submission of documents to Attorney General (4) Enforcement Section for suit.

- b. The following statutes and regulations apply to successor debt liability.
 - A.R.S. § 23-733 (D) (Successor debt liability)
 - A.A.C. R6-3-1713 (E) (R6-3-1713 (Business transfers)
- 8. Termination of Coverage

The following statutes and regulations apply to termination of coverage:

- A.R.S. § 23-725 (Employer coverage; termination)
- A.A.C. R6-3-1712 (Joint, multiple, and combined employer experience rating accounts)
- 9. Election to Become Liable for Payments in Lieu of Taxes (Form UC-015 and Form UC-015A) and Denial of Reimbursable Status

The following statutes and regulations apply to election to become liable for payments in lieu of taxes and denial of reimbursable status:

- A.R.S. § 23-750 (Denials of elections or terminations of elections for reimbursement status)
- R6-3-1717 (E) (Special provisions for reimbursement employers)
- 10. Assessing Penalty and Interest

Penalty and interest charges begin on the day following the due date.

Due Date a.

> The due date is the last day of the month following the quarter being reported. If the due date falls on a Saturday, Sunday, or legal holiday, then the date is extended to the next working day.

> For a newly liable employer, the first due date is the last day of the month following the guarter during which liability was met. On this date, reports for any completed calendar quarter, including the quarter of liability, are due.

b. **Penalty Provisions**

The amount of penalty assessed is the greater of \$35 or .1% of the total wages up to a maximum penalty of \$200 for each late guarter. If the total wages are not greater than \$35,000 the penalty will be \$35.

There is provision for waiver of penalty, contingent upon approval of the Department. Requests for waiver should be included with the wage report with payment of the total amount due in order to receive due consideration.

Interest Provisions C.

Interest is assessed whenever taxes are not paid by the due date. Interest is 1% of the unpaid taxes and is assessed for each month or part of a month the taxes remain unpaid. Thus, payment that is one month and one day late will be assessed two months of interest.

Interest charges are also subject to waiver, but again, only upon the approval of the Department. The payment of the total taxes due should accompany an employer's request for waiver of interest.

- d. The following statutes and regulations apply to assessing penalties and interest:
 - A.R.S. § 23-723 (Penalties for failure to file timely or complete contribution and wage reports)
 - A.R.S. § 23-736 (Interest on past due contributions)
 - A.A.C. R6-3-1704 (Due date of quarterly reports, contributions, and payments in lieu of contributions)

11. Arizona Department of Revenue Setoff

The following statutes and regulations apply to the Arizona Department of Revenue setoff:

- A.R.S. § 12-904
- A.A.C. R6-1-202 (F)

Mission Statement For The Unemployment Insurance (UI) Tax Appeals Unit 802

The mission of the Appeals Unit is to promptly respond to employer protests regarding the Department's determinations concerning employer liability and experience rating issues and to inform the employer of the right to appeal an unfavorable decision.

803 Unemployment Insurance (UI) Tax Appeals Unit

The focus of this section is the policies and procedures used by the UI Tax Appeals Unit in providing written Reconsidered Determination responses to employers or employers' representatives appealing a determination made within the Department.

.01 Formal Response of The UI Tax Appeals Unit

The UI Tax Appeals Unit prepares the formal response of the UI Tax Program for the Chief of Tax to any unresolved appeals. The responses consist of "reconsidered determinations" pursuant to A.R.S. § 23-724(B), § 23-732(A), and § 23-733(B), "denials of applications for redetermination" pursuant to A.R.S. §23-732(r3) and A.R.S. § 23-750(C), "decisions" pursuant to A.A.C. Section R-6-3-I404 (B)(4) and A.R.S. §23-740, and "refusals to grant relief" pursuant to A.R.S. §23-724 (C).

- (C) The formal response to timely appeals contains the facts considered and relied upon in making the determination, the specific statutes, regulations or other authority relied on in making the determination as well as, containing the reasoning applied in making the determination, the appeal rights related to the determination, and the time period after which the determination becomes final. The policy of the UI Tax Program is to discuss the basis of the determinations and/or assessments in response to an untimely appeal, in order to eliminate any confusion or uncertainty on the part of the employer. Appeals rights related to the formal response are:
 - A. Either fifteen days for timely and untimely appeals of refusal to grant relief pursuant to A.R.S. §23-724(C), benefit charge issues, tax rate issues, severable portion transfer denials, and decisions on reassessment, or
 - B. Thirty days for timely and untimely appeals of all other tax issues.
 - C. Timely appeals to employment and wage issues may only be appealed to the Appeals Board, by filing a petition for hearing within thirty days of the reconsidered determination.
 - D. The employer's UI Tax and Wage Reports for any quarters asserted to be due which state the names, social security numbers, and amounts paid to the individuals performing the disputed services must be included with an appeal.

.02 Best Practices

Prior to contact with the party making the appeal, the Appeals Officer or designated staff should determine the timeliness of the appeal. It is the practice of the UI Tax Program to investigate and review all appeals. However, the timeliness of the appeal will determine certain legal procedures that must be followed. Best practices dictate that the Appeals Officer or designated staff establish communication with the party appealing. Inform the party of the state's desire to resolve the appeal, if possible, and what procedures will be utilized during the review.

A. Witnesses

The Appeals Officer or designated staff should identify and interview witnesses who will be necessary to prove or disprove the facts necessary to the issue(s) identified in the appeal. If a witness refuses to cooperate and other witnesses are not available, the Appeals Officer or designated staff should enlist the assistance of the employer to obtain the witness' testimony. When necessary a subpoena may be issued to compel the witness' attendance and testimony.

B. Written Materials

Any materials necessary to support the Department's position should be obtained including but not limited to books and records, contracts, personnel records, sales agreements, purchase agreements, warning notices, or posted company rules. Like witnesses, the employer's assistance may prove invaluable in obtaining documents and a subpoena can be utilized. The Appeals Officer or designated staff should be prepared to explain how a document relates to the issue and how it supports or disproves other evidence presented including testimony of witnesses.

C. Right to Review Department Records

Often, the party making an appeal will request to review the Department's records. An employer will be furnished with copies of all documents directly concerning their liability. This includes all documents and wage reports filed by the employer and all determinations and assessments issued to the employer. Requests to review work papers, interview reports, and other reports of the status specialist or tax auditor must be requested in writing to the U I Tax Program's security officer or designated staff.

D. Employer Cooperation

Unless the party making the appeal has chosen to submit an extensive written statement explaining his position on any given issue, this party must be accessible and reasonable in setting a time and place for discussion. If in the UI Appeals Officer or designated staff's opinion the employer is unnecessarily avoiding requests for discussion, an employer should be informed in writing that his failure to cooperate might be construed as default.

.03 Determination of Unemployment Insurance Liability

Upon receipt of the Department's determination regarding liability, the employer has fifteen days to file a written appeal for a Reconsidered Determination. The UI Tax Appeals Officer uses the following basic criteria in determining employer liability:

A. Employer

Statutory authority A.R.S. § 23-613 defines an employer as all inclusive of the following information. In Arizona, liable employers pay unemployment taxes on the first \$7000 in wages paid to each employee in a calendar year. An employer can be an individual, partnership, corporation, or any other legal entity for which a worker performs a service. A new business owner qualifies as an employer if any of the following conditions are met:

- 1. Pays wages of at least \$1500 during a calendar quarter.
- 2. Employs at least one worker for some part of a day in each of twenty different weeks in a calendar year.
- 3. Acquires the business or part of the business of an employer subject to unemployment taxes.
- 4. Is required to pay Federal Unemployment Tax because the business owner employs individuals in another state(s) for any other reason.
- 5. Owns or controls two or more businesses in Arizona which together meet any of the other conditions described herein.
- 6. Pays domestic workers at least \$1000 cash wages in a calendar quarter.
- 7. Pays agricultural workers at least \$20,000 cash wages in a calendar quarter.
- 10. Employs at least ten agricultural workers for some part of a day in each of twenty different weeks in a calendar year.
- 11. Is a nonprofit organization exempt under Section 501(c)(3) of the Internal Revenue Code and employs four or more workers for some part of a day in each of twenty different weeks in a calendar year.
- 10. Voluntarily elects to provide unemployment coverage to his or her workers even though it is not required.
- 11. Owns or controls a leasing or temporary services business that leases or provides workers to other businesses.
- 12. Is an Indian tribe including any subdivision, subsidiary, or business enterprise wholly owned by the Indian tribe.

B. Authority

The UI Tax Appeals Officer or designated staff adhere to the following statutes and rules for determining basic employer liability:

- A.R.S. § 23-724 (Liability determinations)
- A.A.C. R6-3-1713 (Business transfers)

C. Payrolling

If an employer functions strictly as a pay rolling entity of another employer, then succession has not taken place because the pay rolling entity's sole purpose is "payrolling". The employer did not succeed to or acquire other employers' businesses customers, inventories, business names, accounts receivable and payroll, goodwill, tools and materials, fixtures, or equipment, etc. Moreover, the payrolling entity is not continuing the other businesses. In actuality, the employees are still performing their services for the original entities. The payrolling entity is legitimately "payrolling" the workers pursuant to A.R.S. § 23-614(C), but it is not continuing to employ them as contemplated by A.R.S. § 23-733 (A).

A.R.S. § 23-614 (C) permits "payrolling" by providing, in pertinent part, that an individual who performs services in or for a particular employing unit shall not be deemed to be in the employing of such employing unit if such individual's wages for services in or for the particular employing unit are paid by another employing unit, and if the contributions required by this chapter on such wages which are paid by such other employing unit.

.04 **Reconsidered Determination Responses**

A. Contents

Every Reconsidered Determination (RD) response shall contain the following information:

- 1. The issue(s),
- 2. The facts considered by the Department,
- 3. The facts relied upon,
- 4. The applicable law, regulations, and decisional cases,
- 5. The Department's decision (Reconsidered Determination),
- 6. The finality of the determination, and
- 7. The employer's further appeal rights.
- B. The employer may request a revision of a final determination by the Department pursuant to A.R.S. § 23-724 (C), which provides, in pertinent part:

- (C) On an employer's written request and the submission of pertinent information to the department, the department shall, or on its own motion may, consider whether a determination, reconsidered determination or decision, which has become final, should be revised. Revision shall be granted if either:
 - 1. There has been a substantial and material change in the facts on which the determination, reconsidered determination or decision relied, or
 - 2. There has been a change in the law or interpretation of the law, which warrants a revised determination, reconsidered determination or decision.
- C. In addition, under A.A.C. R6-3-1721 (Liability determinations; review; finality), if an employer alleges an RD issued under A.R.S. § 23-724 (F) [determination of the department or appeals board] or A.R.S. § 23-732 (A) [determination of employer rate] is defective and so specifies in writing within the appeal period specified by law, then the Department shall review its RD for completeness as required by A.R.S. § 23-724 (G).
- D. Under A.R.S. § 23-724 (I), clerical errors may be corrected at any time.

Payments Made By The Employer Under a Timely Appeal .05

A.R.S. § 23-741 (Payment of amounts in dispute) provides that the Department "shall refund any payment of contributions, payment in lieu of contributions. interest or penalties subsequently determined not due as a result of an appeal to the notice issued by the department pursuant to A.R.S. § 23-724, § 23-732, § 23-733, § 23-738, § 23-738.01, § 23-739, § 23-740, or § 23-750". The employer should be advised that a payment schedule can be arranged with the Collections Unit if the employer cannot immediately remit the taxes owed.

.06 Possible Out Comes of an Appeal

- Α. **Resolved Appeals**
 - 1. Modify

The Reconsidered Determination both affirms a part of the Department's initial determination and reverses a part of the initial determination because of a change in the employer's circumstances, a change in the law, or because of a Departmental error or omission.

2. Partial Agreement

A partial agreement may be reached with the employer whereby the employer agrees to some aspects of the determination/assessment. Any areas of agreement by the employer to the determinations and/or assessments are documented in writing bearing the signature of the employer and the date of agreement. If the employer decides not to withdraw the appeal, then the UI Tax Appeals Officer or designated staff shall issue a Reconsidered Determination on the areas of non-agreement.

3. Withdrawal

If, after the employer has filed a protest, the issues are resolved before the UI Tax Appeals Officer or designated staff have issued a Reconsidered Determination to the employer, then the employer may withdraw his protest with the Department by filing with the Appeals Unit a Withdrawal of Appeal form. A withdrawal may be accomplished if either:

- a. The employer fully agrees with the Department's initial determination and agrees to pay the taxes owed (the Department may waive interest and/or penalties) or;
- 4. A compromise and offer to settle (Form UC-144) is made by the employer pursuant to A.R.S. § 23-642 (Compromise of claims for contributions) whereby the employer is given an opportunity to pay a portion of the taxes, interest, penalties, and fees owed. The Chief of Tax and the Assistant Director must approve a compromise and offer to settle. The Job Training Tax owed by the employer is <u>not</u> a part of the compromise and offer to settle and must be paid by the employer.
 - i. The Form UC-144 is designed to capture financial information for two distinct periods: more than two years in arrears and less than two years in arrears. Because interest continues to accrue monthly, there will always be an amount due in relation to interest in the category of less than two years (unless no taxes are due).
 - (a) A completed Form UC-144 must be accompanied by a Memorandum addressing the following factors and a recommendation regarding acceptance or rejection of the employer's offer:
 - i. The age of the debt (two years or more than two years),
 - ii. The reasonableness of the offer,

- iii. The administrative costs of continued collection efforts in comparison to the amount owed.
- iv. The voluntary compliance of the employer treating its workers as employees,
- v. Inconsistent administration by the Department (in prior years workers were not considered employees),
- vi. The non-significant effect on the trust fund (reserve balance and possibility of future benefit charges on the employer's account),
- vii. Non-profit status,
- viii. The hazards of litigation,
- ix. The attendant costs of litigation,
- x. The accessibility of the debtor, and
- xi. The debtor's present and future ability to pay the amount due.
- (b) The Memorandum may also include information on what action has been taken with respect to real and personal property searches, financial statements, and other observations regarding the likelihood of collections.
- c. A sound practice is to collect the lien fees as an additional amount, over and above, the compromise offer.
- Whenever a compromise is discussed with an employer, it must be clearly stated that an offer to compromise is subject to review and approval by the Department
- e. If the employer accepts a compromise and it is approved by the Department, then a confirmation letter with a copy of the approved compromise offer is sent to the employer. If liens are to be released, they should be sent with the confirmation letter or indicate the time frame when the Department will issue the lien releases.
- f. In the event the compromise offer is not specific regarding payment application, then all payments should be applied to taxes owed without regard to their age. This approach best ensures that any attendant FUTA liabilities will be minimized for the employer.

g. A.R.S. § 23-743 (Limitations) provides that there is no time limit for collection actions of delinquent contributions determined due within the statutory period. Consequently, as a general rule, the debt of a proprietor, general partnership, or limited partnership should not be compromised because there is no uncertainty about collectability.

Revision or Reversal

The Reconsidered Determination reverses the initial determination because of a change in the employer's circumstances, a change in the law, or because of a Departmental error or omission.

5. Recommendation for Waiver of Penalty and/or Interest

An employer willing to withdraw its appeal contingent upon waiver of penalty and/or interest must submit its withdrawal in writing, file all reports due and pay or make arrangements to pay all taxes due.

b. Unresolved Appeals

An unresolved appeal requires a report from the reviewer indicating a decision specifically affirming, modifying, or reversing the determinations and/or assessments under appeal. Reconsidered determinations addressing employment and wage issues should focus on aspects of the work relationship. A complete depiction of the business activity of the employing unit will also assist in responding to the employer. When an appeal involves several categories of services, it is preferred that the report separately discusses each service and identifies, when possible by name which worker performs what service.

Disputed workers' interviews should be summarized to include all the pertinent facts. Reconsidered determinations addressing successorship should address the continuity of management, ownership, employees, or procedures, the change of identity, the capacity to continue a similar business, and the interruption of the business during the transfer. Specific factors, which must be ascertained, are whether the predecessor's place of business, trade name, staff of employees, customers, goodwill, inventory, accounts receivable/payables, tools and fixtures, and other assets were bought as a part of the transfer or acquired separately. If the disputed successorship entailed a direct transfer, the reviewer must obtain any documents concerning the transaction. A predecessor's written acknowledgment of the successorship is also an important component of the reconsidered determinations.

An unresolved, untimely appeal requires the reviewer to advise the appealing party that any further appeal by the employer is limited to the timeliness of the appeal. However, the reviewer's role is to verify that the determination and/or assessments were proper and make recommendations, when warranted, to revise or reverse determinations and/or assessments.

Unresolved, untimely appeals to assessments for delinquent reports derived from "an estimate based upon information in the Department's possession" will not be reduced or cancelled unless it is established that the employing unit was not conducting a trade or business for a part of the quarter or the quarter for which the assessment was issued. This is in keeping with the provisions of A.R.S. §23-738, which requires the estimate is for a "return required by this chapter". Thus, if it is established that no return was required, the assessment may be revised or cancelled after it becomes final.

Unresolved untimely appeals to assessments issued by a Department representative after a review of the employer's records may be reduced or cancelled when it is established that an error occurred in their preparation on the part of Department representative. A.R.S. §23-724(I) provides that clerical errors may be corrected at any time.

.07 Employer's Request For Revised Decision

An employer may request that the Department's final decision be revised pursuant to A.R.S. § 23-724 (C), which provides, in pertinent part:

- (C) On an employer's written request and the submission of pertinent information to the department, the department shall, or on its own motion may, consider whether a determination, reconsidered determination or decision which has become final, should be revised. Revision shall be granted if either
 - There has been a substantial and material change in the facts on which the determination, reconsidered determination or decision relied; or
 - 2. There has been a change in the law or interpretation of the law, which warrants a revised determination, reconsidered determination or decision.

A. Adjustment or Refund

Arizona Revised Statute (A.R.S.) Section (§) 23-742 (A) provides that an employer may apply to the Department:

"For an adjustment of the contribution or interest in connection with subsequent contribution payments, or for a refund of the contribution or interest in the event the adjustment cannot be made. If the department finds the contribution or interest, or any part of the contribution or interest was erroneously collected, it shall allow the employer to make an adjustment, without interest, in connection with subsequent contribution payments, or if the adjustment cannot be made the department shall refund the amount, without interest, from the fund into which payments were made. For like-cause and within the same period, the adjustment or refund may be made on the initiative of the department".

Statute of Limitations

The Statute of Limitations for employer refunds and collections of unemployment insurance taxes are provided for as follows in A.R.S. § 23-742 (Limitations on refunds) and A.R.S. § 23-743 (Limitations on collections).

a. Refunds

A.R.S. § 23-742 provides that an employer may apply for an adjustment or, in the event an adjustment cannot be made, a refund no later than three years after the employer's contribution (or interest on contribution) become due. In addition, the statute provides that within the same three-year period, the Department may act on its own initiative regarding an adjustment or refund.

This issue has been addressed by a decision of the Arizona Supreme Court which held that § 23-742 created a three-year statute of limitations with regard to employer contributions "erroneously" paid or collected. Mountain View Pioneer Hospital v. Employment Sec. Commission, 107 Ariz. 81, 482 P.2d 448 (1971).

Consequently, the Department is without authority to waive the statutory three-year period.

For example, an employer may request a refund of an overpayment in the quarter ending December 31, 1994 only if the employer's request is filed within three years of the date the taxes were due: January 31, 1998. A request filed after January 31, 1995 would not be granted by the Department.

In the event an employer's request for refund is granted, then the Department may only refund the overpayment of taxes if the employer has no delinquent reports or balance due.

b. Collections

Generally, if more than three years of Liability for Employment or Wages (Form UC-016A) to a successor employer, then the employer will not be sent an Amount Due Form Predecessor (Form UC-216A) notice and no lien will be filed regarding liability of the predecessor's debt. In the event the successor is not being held liable, then the Collection Unit will either continue collection activity against the predecessor employer or cease collection activity (account placed in uncollectible status).

B. Internal Revenue Service Rulings

Under A.R.S. § 23-613.01 (E): "...an individual or class of individual determined to be an employee or employees for purposes of the federal unemployment tax act, as amended (26 United States Code §§ 3301 through 3311), are employees under this chapter."

Accordingly:

The information gathering portion of any investigation should include questions regarding the existence of requests to the IRS or determinations from the IRS regarding employer-employee issues. Examples of items, which may be relied on to give guidance in the course of an investigation, are: IRS private letter rulings or determinations (commonly referred to as SS-8's) or requests filed by the employer for reconsideration of IRS rulings or determinations. The Department will request copies of IRS rulings or determinations for review. When an IRS determination designates an employment relationship, it is not necessary to extend the scope of the investigation beyond the employment category specified in the IRS determination.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS: SECTION 900

SUBJECT: UNEMPLOYMENT INSURANCE (UI) TAX IMAGING UNIT

900 UNEMPLOYMENT INSURANCE (UI) TAX IMAGING UNIT

This section describes the policies and procedures of the Imaging Unit, which scans and indexes all documents and wages that come to the UI Tax Program into the Visual Information (VI) System. In addition, this section provides the mission statement for the Unemployment Insurance (UI) Tax Imaging Unit.

901 UNEMPLOYMENT INSURANCE (UI) TAX IMAGING UNIT MISSION STATEMENT

It is the mission of the Unemployment Insurance (UI) Tax Imaging Unit to provide all of the individual units comprising the UI Tax Program and their customers with storage and retrieval of accurate tax related documents in a timely manner.

902 UNEMPLOYMENT INSURANCE (UI) TAX IMAGING UNIT POLICIES

- A. All incoming documents will be counted and reviewed to ensure that each document has been scanned and is readable.
- B. Each document must include the following:
 - 1. An account number.
 - 2. Be identified by the type of document.
 - Indicate the date received.
- C. Paper copies are retained until all documents have been indexed (approximately 20 to 30 days).

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX TEAM USER GUIDE

PROGRAM INSTRUCTIONS: SECTION 1000

SUBJECT: TAX PERFORMANCE SYSTEM (TPS) UNIT

1000 TAX PERFORMANCE SYSTEM (TPS) UNIT

The Tax Performance System (TPS) Unit reviews the internal controls and quality standards for thirteen functions within the Unemployment Insurance Tax Program. These standards have been established by the United States Department of Labor and are detailed in ET Handbook 407 - Tax Performance System.

.01 Tax Performance System Overview

The Tax Performance System (TPS) is intended to assist State administrators in improving their Unemployment Insurance (UI) programs by providing objective information on the quality of existing revenue operations. TPS will also serve to help the United States Department of Labor carry out its oversight, technical assistance, and policy development responsibilities.

The TPS program is a part of the United States Department of Labor's "UI Performs," a comprehensive performance system in which the States and Federal government work together as partners to strengthen the UI Tax system. The TPS Manual may be viewed at:

http://www.ows.doleta.gov/dmstree/handbooks/407/hb 407 toc htm

.02 Removing Cases from TPS Sample

The following is the procedure used to remove cases from the initial list of failures for each TPS sample (13 total samples):

- A. TPS Manager reviews all 60 cases (or number being reviewed determined by the universe size) in the sample and creates an initial memo of case failures.
- B. The initial memo of case failures is distributed to the applicable Unit Manager and copied to the Central Office Manager except Field Audit, which is copied to the Chief of Tax.
- C. A meeting is held between the Unit Manager and the TPS Manager where each case failure is discussed.
- D. If the Unit Manager can provide documentation that the case should have passed the review, the unit is removed from the initial memo of case failures. Cases can be removed for any number of reasons - internal procedural changes that were not relayed to the TPS Unit, misunderstanding of examiner/auditor/technician/collector documentation, etc.

E. Once all case failures have been discussed, and the Unit Manager and TPS Manager agree on the final results of the review, a final memo of failures is produced and distributed to the Unit Manager, the Central Office Manager, and the Chief of Tax.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY



UNEMPLOYMENT INSURANCE (UI) TAX

PROGRAM INSTRUCTIONS: SECTION 1100

SUBJECT: GLOSSARY

1100 GLOSSARY

This section contains commonly used acronyms and definitions found throughout the UI Tax Policy Manual.

Active Employer An employer who has Arizona employment and has

received written notice of a Determination of

Unemployment Tax Liability indicating their account number, basis for liability and unemployment tax rate.

Arizona Job Training

Program

The Arizona Job Training Program supports the design and delivery of training plans that meet unique industry standards and challenges of the individual employer. The intention of the Arizona Job Training Program is to create quality employment opportunities, increase skill levels, and raise the per capita income of Arizona

residents.

Arizona Job Training Tax The Job Training Tax funds the Arizona Job Training

Program administered by the Arizona Department of

Commerce.

Bank Account or Accounts Receivable

Levy

This type of levy can be used when specific assets are discovered, such as cash deposit with the Registrar of

Contractors.

Base-Period The base-period is the first four of the last five

completed calendar quarters prior to the claimant's benefit year beginning date and the beginning and ending quarters of the claimant's base-period.

Benefit Year Beginning

Date

The benefit year is the one-year period during which a claimant may draw benefits, if eligible. Throughout this

one-year period, a claimant may draw up to twenty six

weeks of benefits.

Benefits Paid The amount the employer is liable to pay.

Common Ownership or

Control

Common ownership or control exists when more than 50% of two employing units are commonly owned or

controlled by the same principal(s).

Coverage Start Date The coverage start date is the earliest date in the

calendar year in which liability was met and from which

an employer must begin to report wages.

1100 GLOSSARY DES 1100

Employer Registration System (ERS)

The ERS is an automated system used by the Department to receive Employer Registration applications.

Federal Unemployment Tax Act of 1939 (Public Law 76-379) The Federal Unemployment Tax Act (FUTA) is the law providing Federal Unemployment Tax, administered by the Internal Revenue Service (IRS) for the Department of Labor (DOL), to provide funds for administration of state unemployment insurance programs.

Field Audit

Under the guidelines outlined by the United States Department of Labor, a field audit is a systematic examination of an employer's books and records, using generally accepted auditing standards and procedures.

Field Audit Report

The United States Department of Labor requires completed change and no-change audits to be documented by a written record, which contains work papers presenting evidence and supporting findings and conclusions.



With the passage of House Bill 2093, which added Section 23-733.01 to the Arizona Revised Statutes. Arizona now has enacted legislation as a result of the federal SUTA Dumping Prevention Act. This new law, effective August 12, 2005, provides for employers who are caught illegally lowering their UI rates to pay at the highest rate provided by law or at their current rate plus an additional two percent, whichever is greater. The new law also provides for a \$5,000 penalty for anyone who is not an employer who knowingly advises another person or business to violate Arizona's UI rate and reporting laws. It also makes changes in the law regarding the application and transfer of UI reserve account balances. It specifies that whenever an employer transfers its business to another employer, the reserve account will be transferred if they are under common ownership, management, or control. The new law also provides that if the acquisition was for the purpose of getting a lower UI rate, the transfer will be denied.

Investigation

An investigation is the examination of both recorded and unrecorded facts and circumstances related to the liability or status of an employer or the status of a benefit claimant.

1100 GLOSSARY **DES 1100**

A levy is the seizure of property to satisfy amounts due Levy

the Department.

A lien is a legal attachment of an interest in real or Lien

personal property.

Lien Release Lien releases will be processed due to payment in full,

> when the lien was filed while the employer was in bankruptcy or when directed to by Management due to unusual circumstances. A partial lien release will be required when one or more parties must be released but the lien must stand or when the Department wishes to release or "uncloud" the title of real property due to a

foreclosure, bankruptcy, or trustee sale.

Merger A merger occurs when two or more independently

covered employers combine to form a new successor

business entity.

Post-Audit Interview The results of the audit must be discussed with the

employer or an authorized representative when the audit

has been concluded.

Pre-Audit Interview The pre-audit interview is conducted to obtain

> information about the type of legal entity and various aspects of the business activity, the bookkeeping and accounting systems maintained, the personal services required, and the method of compensation used.

An employer with an active Unemployment Tax Account **Rated Employer**

who has been given a tax rate for the calendar year is a

rated employer.

Reconsidered

A reconsidered determination is the formal response of Determination the Unemployment Insurance (UI) Tax Appeals Unit to

an employer appeal.

A business that has filed an Arizona Joint Tax Registered Employer

> Application (UC-001) and has been assigned an Unemployment Tax account number is a registered

employer.

1100 GLOSSARY DES 1100

Reimbursable Employer

Under the reimbursement payment option, the employer does not pay a quarterly tax. The employer reimburses the Department each quarter for the actual amount of UI benefits paid during the prior quarter.

Reimbursement Account

Nonprofit organizations designated as 501(C) (3) and state and local governmental entities may elect this method of tax payment provided for in A.R.S. § 23-750. Under this method of payment, the employer does not pay a quarterly tax. The employer reimburses the Department each quarter for the actual amount of benefits paid in the prior quarter.

Scope of Audit

The scope of an audit refers to the number of quarters examined during an audit.

Severable Portion Transfer

A request for a severable portion transfer must be made in writing to the Experience Rating Unit by the successor employer within 180 days of the date of acquisition. If approved, a portion of the experience rating account of the predecessor employer will be transferred to the successor. The tax rate of the successor and the predecessor will be adjusted accordingly. The predecessor and successor are assigned new account numbers. The predecessor's old account number is closed. Employers may direct questions regarding severable portion transfers to the Experience Rating Unit.

Shared Work Unemployment Compensation Program

The Shared Work Unemployment Compensation Program provides an alternative for employers facing the need to reduce their workforce. The Shared Work program allows an employer to divide the available work or hours of work among a specified group of employees in lieu of a layoff and it allows the affected employees to receive a portion of their unemployment benefits while working reduced hours.

Sheriff's Levy

This type of levy should be considered the levy of last resort. Typically, a sheriff's levy will take two to six months for resolution. UI taxes will take second place to any County writ of execution (usually for property or sales tax). Maricopa County has a standard fee of two hundred and fifty dollars for levy service, regardless of results. There are also other considerations, such as securing any seized items, advertising any sales, and payment for towing and storage.

1100 GLOSSARY DES 1100

Social Security Act of

1935

The Social Security Act of 1935 (Public Law 74-271) created the Federal-State Unemployment Compensation

(UC) Program

State Unemployment Tax Act (SUTA) Dumping

SUTA dumping, one of the biggest issues facing the Unemployment Insurance (UI) Program is a tax evasion scheme where shell companies are formed and creatively manipulated to obtain low UI tax rates.

<u>SUTA Dumping</u>
Prevention Act of 2004

Signed by President Bush in August 2004, this law requires each state to enact laws to prevent employers from inappropriately lowering the UI contribution rates. The law not only bans SUTA dumping, but also levies heavy penalties on those who engage in or promote such abusive practices.

Tax Performance System (TPS) Unit

The Tax Performance System (TPS) Unit reviews the internal controls and quality standards for thirteen functions within the Unemployment Insurance Tax Program. These standards have been established by the United States Department of Labor and are detailed in ET Handbook 407 - Tax Performance System.

Total Base-Period Wages

The total base-period wages reported by the employer are wages earned in the base-period and determine the amount of benefits a claimant is eligible to receive during the benefit year.

Transfer

A transfer is processed when one liable employing unit acquires the entire business of another liable employing unit. The experience rating account of the predecessor is combined with that of the successor as of January 1 of the calendar year after the date of transfer.

UI Performs

The United States Department of Labor's "UI Performs" is a comprehensive performance system in which state and federal government work together as partners to strengthen the UI system. The Tax Performance System, Benefit Accuracy Measurement, and Performance Measurement Review are all a part of UI

Performs.

Voluntary Election

An employing unit that does not meet liability may elect coverage or an employing unit may elect to cover

exempt services.

Wage Levy

This levy can only be used against sole proprietors and general partners. This levy allows the debtor to keep fifty dollars per week for themselves and fifteen dollars per week for each dependant. Due to those parameters, the collections supervisor normally modifies the levy to a wage assignment based on an agreement with the debtor.